

# Exhibit DDD

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01:31:10 1 Judge Kennelly, December 6, 2016, 1:30 p.m. call and trial.

01:39:51 2 (The following proceedings were had in open court in the  
01:39:52 3 presence and hearing of the jury:)

01:39:52 4 THE COURT: Everybody can have a seat. I have  
01:39:56 5 allowed Mr. Kulwin to go into one topic, one additional topic  
01:39:59 6 on his direct. Mr. Kulwin, you can go ahead.

01:40:01 7 MR. KULWIN: Thank you, your Honor.

01:40:02 8 - - -

01:40:02 9 JACK HYNES, DIRECT EXAMINATION CONTINUED

01:40:02 10 BY MR. KULWIN:

01:40:04 11 Q. Judge Hynes, I think you testified earlier this morning  
01:40:08 12 that after you were done looking at everything, you spoke with  
01:40:14 13 Mr. DiBenedetto about the Vaughn/White murder. Do you  
01:40:18 14 remember I asked you about that?

01:40:20 15 A. Yes, sir.

01:40:20 16 Q. Did you tell Mr. DiBenedetto, did you provide information  
01:40:27 17 to Mr. DiBenedetto about your review of the Vaughn/White  
01:40:31 18 files?

01:40:32 19 A. Yes, I did.

01:40:33 20 Q. And did you discuss with him specifically the issue of  
01:40:36 21 eyewitnesses?

01:40:37 22 A. Yes, I did.

01:40:37 23 Q. Can you tell the ladies and gentlemen of the jury what you  
01:40:40 24 told Mr. DiBenedetto at that time?

01:40:42 25 A. I told Mr. DiBenedetto that there were two young children

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01:40:46 1 in the apartment at the time of the murders that were I  
01:40:50 2 believe hiding in a bedroom or some room there, that they did  
01:40:56 3 see some stuff, but there were some problems with the  
01:41:00 4 identifications, misidentifications and the like, and I said  
01:41:03 5 that other than that, I didn't know of any witnesses to the  
01:41:06 6 offense.

01:41:06 7 Q. And as a result of that, is that reflected on your felony  
01:41:14 8 review thing where you say no eyewitnesses?

01:41:19 9 A. That's correct.

01:41:20 10 Q. And did that conversation occur before or after you wrote  
01:41:24 11 on here that charges were approved by Ernie DiBenedetto?

01:41:28 12 A. That conversation occurred before.

01:41:40 13 MR. KULWIN: If I may have one moment.

01:41:45 14 THE COURT: Okay.

01:41:45 15 MR. KULWIN: I don't have anything further, your  
01:41:47 16 Honor.

01:41:47 17 THE COURT: All right. Mr. Loevy.

01:41:48 18 - - -

01:41:48 19 JACK HYNES, CROSS-EXAMINATION

01:41:48 20 BY MR. LOEVY:

01:41:56 21 Q. Isn't it true, sir, that the warrant and charges were  
01:42:01 22 approved on the Vaughn/White murder more than a month before  
01:42:03 23 you got involved?

01:42:04 24 A. The warrant may have been approved, but I don't know that  
01:42:10 25 the charges were approved.

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01:42:11 1 Q. All right. But that would have had nothing to do with  
01:42:14 2 you, right, back in May?

01:42:15 3 A. Correct.

01:42:16 4 Q. All right. Let's back up.

01:42:18 5 You learned about at some point you came to learn  
01:42:22 6 Sumner had lied about Nate's involvement in the murder,  
01:42:25 7 correct?

01:42:26 8 A. In 1992, yes.

01:42:29 9 Q. What was your understanding for why Sumner had lied on  
01:42:32 10 Nate?

01:42:33 11 THE COURT: You are asking him what Mr. Sumner said  
01:42:36 12 about that?

01:42:37 13 MR. LOEVY: Yeah.

01:42:37 14 THE WITNESS: Again I think I memorialized that, I  
01:42:40 15 don't know if you have the statement there, but I memorialized  
01:42:44 16 it in the statement as to why he.

01:42:48 17 BY MR. LOEVY:

01:42:48 18 Q. That's what I'm asking.

01:42:50 19 A. Yeah. And what he said was that he was confused or  
01:42:56 20 something to that effect and that he was mad at Nathson Fields  
01:43:01 21 because he had put his mother out of one of the houses.

01:43:04 22 Q. All right. You've reviewed all these documents to prepare  
01:43:10 23 for today, correct?

01:43:11 24 A. I have reviewed what I have seen, yes, sir.

01:43:13 25 Q. And Nate -- Sumner also told you that he had lied about

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01:43:16 1 another murder, correct?

01:43:17 2 A. Yes.

01:43:18 3 Q. And did you know why they were creating this statement in  
01:43:22 4 1992 to correct some Sumner lies?

01:43:27 5 MR. KULWIN: Objection, Judge.

01:43:28 6 THE COURT: Rephrase the question.

01:43:30 7 BY MR. LOEVY:

01:43:30 8 Q. Do you have any idea of the circumstances why Sumner was  
01:43:33 9 amending some of his stories?

01:43:34 10 MR. KULWIN: Objection, Judge, argumentative.

01:43:36 11 THE COURT: Overruled.

01:43:36 12 THE WITNESS: I don't know.

01:43:40 13 BY MR. LOEVY:

01:43:42 14 Q. All right. You were asked about -- by the way, when you  
01:43:48 15 took the statement for Sumner saying he had lied about  
01:43:50 16 Vaughn/White?

01:43:52 17 A. Yes.

01:43:52 18 Q. Why didn't you ask him, by the way, did you lie about the  
01:43:55 19 other murder you put Nate into?

01:43:57 20 A. I asked him about has he been truthful about everything  
01:44:02 21 else that he's testified to either to the U.S. attorneys, the  
01:44:05 22 state's attorneys or any local or federal law enforcement, and  
01:44:10 23 he said other than these two incidents, these were the only  
01:44:14 24 times he lied.

01:44:14 25 Q. All right. But you had to prove felony murder charges on

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01:44:17 1 Smith/Hickman based in part on this informant, correct?

01:44:20 2 A. Correct.

01:44:21 3 Q. So why didn't you say, Mr. Sumner, I need to understand if

01:44:24 4 you lied about the other case you put Nate in why didn't you

01:44:30 5 ask him that request he?

01:44:31 6 MR. KULWIN: Objection, asked and answered.

01:44:33 7 THE COURT: Overruled.

01:44:33 8 THE WITNESS: I asked him about everything.

01:44:35 9 BY MR. LOEVY:

01:44:36 10 Q. I'm asking --

01:44:37 11 A. I didn't single out one particular crime or another.

01:44:40 12 Q. I understand but I'm asking why you didn't. Mr. Sumner,

01:44:44 13 did you lie about Nate about the other crime you put him in?

01:44:47 14 A. I can't answer that, counsel. I don't know.

01:44:49 15 Q. All right. You were told that there were -- I'm showing

01:44:56 16 you Plaintiff's Exhibit 77. These are your notes on

01:44:58 17 Vaughn/White, correct?

01:44:59 18 A. That's correct.

01:44:59 19 Q. And your notes say no eyewitnesses, eye wits to the

01:45:05 20 incident, correct?

01:45:06 21 A. Correct.

01:45:06 22 Q. And when you wrote into eye wits to the incident, did you

01:45:12 23 believe that to be a true statement?

01:45:12 24 A. Based on what I learned, yes.

01:45:14 25 Q. All right. In fact, there were two eyewitnesses, correct?

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01:45:18 1 A. There were two young children who were there.

01:45:21 2 Q. And those two young children had previously participated

01:45:24 3 in lineups, correct?

01:45:25 4 A. Correct.

01:45:25 5 Q. And they had identified the wrong two men, correct?

01:45:29 6 A. They had identified different people.

01:45:31 7 Q. Different people than the known offenders, right?

01:45:34 8 A. Different people.

01:45:36 9 Q. And in fact, Mr. O'Callaghan was involved in those

01:45:39 10 lineups, correct?

01:45:40 11 MR. KULWIN: Objection, lack of foundation, your

01:45:41 12 Honor.

01:45:41 13 THE COURT: Lay the foundation.

01:45:42 14 BY MR. LOEVY:

01:45:43 15 Q. You spoke with Mr. O'Callaghan about the Vaughn/White

01:45:45 16 murders, correct?

01:45:47 17 A. Correct.

01:45:47 18 Q. And in fact, his name is right there, Detective

01:45:50 19 O'Callaghan, right?

01:45:51 20 A. That's correct.

01:45:51 21 Q. Did he explain to you how the two children misidentified

01:45:57 22 the wrong men during one of his lineups?

01:45:59 23 A. I don't remember the details.

01:46:03 24 Q. Did the eyewitnesses to Vaughn/White ever identify Sumner

01:46:12 25 or Hawkins or Fields?

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01:46:13 1 A. Not that I know of.

01:46:17 2 Q. Did you ask the detectives before we approve charges here,  
01:46:20 3 should we make sure that the kids can actually recognize Nate  
01:46:25 4 Fields?

01:46:25 5 A. No.

01:46:25 6 Q. How old were you in 1985?

01:46:28 7 A. Different question, isn't it?

01:46:34 8 THE COURT: You're under oath.

01:46:36 9 THE WITNESS: That's why I went to law school. 29.

01:46:42 10 BY MR. LOEVY:

01:46:42 11 Q. What year did you graduate law school?

01:46:44 12 A. 82.

01:46:45 13 Q. So one of the first assignments in the state's attorney's  
01:46:47 14 office is usually felony review, correct?

01:46:48 15 A. It's one of the progressions, not the first.

01:46:51 16 Q. One of the -- one of the earlier steps, correct?

01:46:54 17 A. One of the steps.

01:46:55 18 Q. And oftentimes you have very young lawyers being asked to  
01:46:58 19 approve felony charges with experienced homicide detectives,  
01:47:02 20 correct?

01:47:02 21 MR. KULWIN: Judge, objection to the general nature  
01:47:04 22 of the question.

01:47:05 23 THE COURT: Sustained.

01:47:05 24 BY MR. LOEVY:

01:47:08 25 Q. All right. Now, you did no investigation of your own on

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01:47:19 1 Vaughn/White, correct?

01:47:20 2 A. No.

01:47:20 3 Q. That is correct, right?

01:47:22 4 A. That is correct.

01:47:22 5 Q. You relied entirely on what Mr. O'Callaghan and

01:47:26 6 Mr. Robertson told you, correct?

01:47:27 7 A. That is incorrect.

01:47:29 8 Q. Did you speak to the informants?

01:47:30 9 A. I spoke to Ernest DiBenedetto.

01:47:33 10 Q. The question was did you speak to the informants?

01:47:36 11 A. No, I did not.

01:47:37 12 Q. So everything you knew at the time was things you had been

01:47:40 13 told, correct?

01:47:41 14 A. Correct.

01:47:41 15 Q. Did -- were you told that the two eyewitnesses had

01:47:47 16 approved someone other than Nate for the murder?

01:47:50 17 MR. KULWIN: Objection, Judge, asked and answered.

01:47:52 18 THE COURT: Sustained.

01:47:53 19 BY MR. LOEVY:

01:47:53 20 Q. Did you consider for probable cause that the eyewitnesses

01:47:56 21 had considered someone other -- had identified someone other

01:47:59 22 than Nate?

01:48:00 23 MR. KULWIN: Same objection.

01:48:01 24 THE COURT: Overruled.

01:48:02 25 THE WITNESS: Is this in the Vaughn/White murders?

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01:48:06 1 BY MR. LOEVY:

01:48:06 2 Q. Yeah.

01:48:07 3 A. Yes.

01:48:07 4 Q. All right. You also approved charges for the Vaughn/White

01:48:10 5 murder, correct? I'm sorry, the Smith/Hickman, correct?

01:48:14 6 A. Correct.

01:48:15 7 Q. And these events were a long time ago, right?

01:48:17 8 A. Correct.

01:48:17 9 Q. And this is something you did every day at that period of

01:48:20 10 your life?

01:48:22 11 A. Yes.

01:48:22 12 Q. And you said you were working these huge shifts, right?

01:48:25 13 A. Correct.

01:48:25 14 Q. One after another you'd go to these murders and approve

01:48:28 15 charges or not approve charges, right?

01:48:30 16 A. It wasn't every day we had a murder charge or one day

01:48:35 17 after another, but there were other cases, murder cases that I

01:48:38 18 worked on.

01:48:38 19 Q. A lot of murders back in those days, right?

01:48:41 20 A. Yes.

01:48:41 21 Q. Are you saying that you actually remember everything you

01:48:43 22 described in court this morning or you've reviewed the papers,

01:48:46 23 you've reviewed your prior testimony and you're relating what

01:48:49 24 you believe happened?

01:48:50 25 A. I have an independent recollection of what occurred, but I

01:48:55 1 did review certain things.

01:48:57 2 Q. All right. But you do claim independent recollection?

01:49:01 3 A. Right.

01:49:01 4 Q. Did you review the charges -- did you approve the charges  
01:49:05 5 in the Vaughn/White case, sir?

01:49:06 6 A. I did.

01:49:06 7 Q. Okay. Do you remember being asked this question in  
01:49:09 8 October 2013 at page 25.

01:49:12 9 "QUESTION: On which case, both?

01:49:16 10 "ANSWER: I know I approved charges on the  
01:49:18 11 Smith/Hickman murder. I'm not sure if the charges approved  
01:49:23 12 charges on the other murder."

01:49:25 13 Did you give that answer, sir?

01:49:27 14 A. I did.

01:49:27 15 Q. That was accurate, right?

01:49:28 16 A. It was not accurate actually.

01:49:30 17 Q. Well, it was accurate that you weren't sure when you gave  
01:49:33 18 the answer, right?

01:49:33 19 A. Correct.

01:49:34 20 Q. You've since gone back at the papers and had a chance to  
01:49:37 21 refamiliarize yourself with the events, correct?

01:49:39 22 A. Correct.

01:49:40 23 Q. Now, you've spoken with the defense counsel to prepare  
01:49:48 24 your testimony, correct?

01:49:49 25 A. Correct.

01:49:50 1 Q. Mr. Kulwin?

01:49:51 2 A. Yes.

01:49:51 3 Q. How many approximate conversations have you had with Mr.

01:49:55 4 Kulwin?

01:49:55 5 A. I met with him once.

01:49:56 6 Q. And how many conversations?

01:49:58 7 A. Just one.

01:49:59 8 Q. One substantive conversation?

01:50:02 9 A. Yes.

01:50:02 10 Q. All right. You guys talked about the questions he was

01:50:04 11 going to ask you, correct?

01:50:05 12 A. He just asked me if I could relay what had occurred and I

01:50:10 13 basically told him what happened.

01:50:11 14 Q. All right. Let's talk about the date you interviewed Nate

01:50:16 15 Fields. Do you remember what date that was?

01:50:17 16 A. That was June 14th of 1985.

01:50:22 17 Q. And you took notes on your felony review folder, did you

01:50:24 18 not?

01:50:25 19 A. I took some notes there, yes.

01:50:26 20 Q. This is Plaintiff's Exhibit 77. These are your felony

01:50:29 21 review notes, correct?

01:50:30 22 A. Yes.

01:50:30 23 Q. And tell the jury why felony review prosecutors take

01:50:34 24 felony review notes on their felony review jackets?

01:50:37 25 A. It's a thumbnail sketch to allow the people in the grant

01:50:44 1 66 to have an idea what the case is about.

01:50:48 2 Q. All right. Because you might not -- you weren't going to

01:50:51 3 be the next prosecutor in court, right?

01:50:53 4 A. No.

01:50:53 5 Q. You were the felony review guy before it gets to court?

01:50:55 6 A. Correct.

01:50:55 7 Q. All right. And then you didn't write this memo, if I

01:50:58 8 understand, until about six weeks later, correct?

01:51:01 9 A. That's correct.

01:51:01 10 Q. This is the memo Mr. Kulwin showed you?

01:51:03 11 A. Yes.

01:51:05 12 Q. All right. And the six weeks that went by, I guess you

01:51:09 13 said you were real busy, lots going on, right?

01:51:12 14 A. There were a lot of things going on, yes.

01:51:14 15 Q. All right. But one of the -- regardless of the reasons

01:51:17 16 why the six weeks went by, by the time you wrote your memo,

01:51:20 17 your memory was no longer as fresh as it would have been had

01:51:24 18 it been a contemporaneous memo, right?

01:51:27 19 A. I had the notes to refresh my memory.

01:51:28 20 Q. All I asked was your memory wasn't as good six weeks

01:51:32 21 later, right?

01:51:32 22 A. No.

01:51:33 23 Q. You did have Mr. O'Callaghan's police report, correct,

01:51:35 24 when you wrote this memo?

01:51:36 25 A. I believe I looked at it.

01:51:38 1 Q. All right. Showing you, for example, in Plaintiff's  
01:51:42 2 Exhibit 86-26, this sentence says, Fields went on to say that  
01:51:46 3 he is presently a member of the El Rukns and that he holds the  
01:51:49 4 title of ambassador. He states that his main duties are to  
01:51:52 5 keep records, pay bills as far as the utilities in the  
01:51:55 6 buildings owned by the nation. Do you see that?

01:51:57 7 A. Yes.

01:51:57 8 Q. Okay. Your memo, for example, tracks that pretty closely,  
01:52:01 9 does it not, in summary, Fields stated that he was an  
01:52:04 10 ambassador with the El Rukn street gang and his duties were to  
01:52:07 11 keep records and pay utility bills on the buildings owned by  
01:52:10 12 the El Rukns, correct?

01:52:11 13 A. That's what my memo says.

01:52:12 14 Q. Okay. So when you were creating your memo, one of the  
01:52:15 15 sources you relied on was Mr. O'Callaghan's police report,  
01:52:18 16 correct?

01:52:18 17 A. I relied on my notes.

01:52:20 18 Q. All right. But you also had the police report, right?

01:52:24 19 A. I did.

01:52:24 20 MR. KULWIN: Asked and answered, Judge.

01:52:25 21 THE COURT: Overruled.

01:52:26 22 BY MR. LOEVY:

01:52:26 23 Q. Let's turn to the interrogation. To be clear, Nate denied  
01:52:29 24 any and all involvement in the Vaughn/White murder, correct?

01:52:32 25 A. That's correct.

01:52:32 1 Q. And he denied any and all involvement in the Smith/Hickman  
01:52:36 2 murder?  
01:52:36 3 A. Right.  
01:52:36 4 Q. He never wavered on that, correct?  
01:52:38 5 A. Correct.  
01:52:38 6 Q. Now, who brought up the Smith/Hickman murder, you or Nate?  
01:52:44 7 A. I brought up the murder.  
01:52:47 8 Q. All right. Are you sure about that?  
01:52:49 9 A. Well, I mean, I asked him -- first I asked him if he knows  
01:52:55 10 why you're here, yeah, I'm here for the two.  
01:52:59 11 Q. Because he had already been interviewed by O'Callaghan,  
01:53:01 12 right, by the time you got to him?  
01:53:03 13 A. Yes.  
01:53:03 14 Q. So your understanding was O'Callaghan had already asked  
01:53:06 15 him questions, right?  
01:53:07 16 A. Correct.  
01:53:07 17 Q. About Smith/Hickman, right?  
01:53:09 18 A. Correct.  
01:53:09 19 Q. All right. Who brought up the nickname Fuddy, your side  
01:53:14 20 or Nate's side?  
01:53:15 21 A. I can't recall.  
01:53:18 22 Q. All right. This is page 22 of your testimony at the same  
01:53:24 23 proceeding, line 17. Do you remember being asked these  
01:53:28 24 questions and giving these answers. At the time of this when  
01:53:32 25 you asked about these murders, the Smith/Hickman and

01:53:34 1 Vaughn/White, how did, for example, when you asked about the  
01:53:37 2 Smith/Hickman, how did you identify the crime to Mr. Fields?  
01:53:39 3 How did you phrase the question?

01:53:40 4 "ANSWER: Well, I think I asked him if he was familiar,  
01:53:43 5 you know, with the murder that occurred over there at 706 East  
01:53:48 6 39th Street involving a couple, you know. I think disciples,  
01:53:53 7 I think it was Fuddy Smith, I might have used the nickname  
01:53:56 8 Fuddy Smith and Hickman Talman, Talman Hickman and he told you  
01:54:01 9 he was not aware, he was not involved."

01:54:03 10 Did you give those answers, sir?

01:54:05 11 A. Yes.

01:54:05 12 Q. You don't claim to remember 30 years later that he brought  
01:54:08 13 up the name Fuddy, do you?

01:54:09 14 A. I don't.

01:54:12 15 Q. You don't, right?

01:54:13 16 A. Correct.

01:54:13 17 Q. In fact, your belief is you would have been the one that  
01:54:15 18 asked him, that's what you said in 2013, correct?

01:54:17 19 A. That's what I said in 2013.

01:54:18 20 Q. All right. Who brought up the name Talman Hickman, you,  
01:54:23 21 your side or Nate?

01:54:24 22 A. What do you mean by side?

01:54:26 23 Q. All right. You and O'Callaghan are on one side of the  
01:54:28 24 table, right?

01:54:29 25 MR. KULWIN: Object, Judge.



01:54:31 1 THE COURT: Rephrase the question. No, you can  
01:54:36 2 answer that.

01:54:36 3 THE WITNESS: I did the questioning of Mr. Fields at  
01:54:39 4 that time.

01:54:39 5 BY MR. LOEVY:

01:54:40 6 Q. Okay. But you and Mr. O'Callaghan were on one side of the  
01:54:43 7 table literally, right?

01:54:44 8 A. No.

01:54:44 9 Q. And Mr. Fields was on the other side of the table, right?

01:54:46 10 A. Not correct.

01:54:47 11 Q. Where was Mr. O'Callaghan?

01:54:48 12 A. He was not next to me.

01:54:51 13 Q. All right. Do you remember that from memory or practice?

01:54:53 14 A. Memory.

01:54:54 15 Q. All right. Who was sitting next to you at the next  
01:54:58 16 interrogation you did?

01:54:59 17 A. What next interrogation?

01:55:01 18 Q. All right. In think event, who brought up George Carter's  
01:55:06 19 possible involvement, you or Mr. Fields, the name George  
01:55:10 20 Carter?

01:55:10 21 A. I asked him if he knew George Carter.

01:55:14 22 Q. Are you sure that before Nate said the name George Carter,  
01:55:17 23 you brought it up?

01:55:26 24 MR. KULWIN: Asked and answered, Judge.

01:55:28 25 THE WITNESS: I think I mentioned George Carter.

01:55:30 1 BY MR. LOEVY:

01:55:30 2 Q. Do you remember being asked this question and giving this  
01:55:33 3 answer on page 14.

01:55:35 4 "QUESTION: Did you ask him about his associations with  
01:55:38 5 Earl Hawkins and George Carter?

01:55:39 6 "ANSWER: Yes."

01:55:40 7 Did you give that answer?

01:55:42 8 A. Yes.

01:55:42 9 Q. So it's not an I think, you did, right?

01:55:44 10 MR. KULWIN: Judge, objection, not impeaching.

01:55:47 11 THE COURT: Overruled.

01:55:47 12 BY MR. LOEVY:

01:55:48 13 Q. In fact, your memo specifically says that Fields was  
01:55:52 14 questioned regarding his associations with Carter among  
01:55:56 15 others, right?

01:55:56 16 A. Correct.

01:55:57 17 Q. That would not have been unusual in a murder interrogation  
01:56:00 18 if a guy says I had nothing to do with it for the interrogator  
01:56:03 19 to say, well, how about George Carter, right?

01:56:05 20 A. Correct.

01:56:06 21 Q. Who brought up the Guerilla squad, you or Mr. Fields?

01:56:17 22 A. I think he brought that up.

01:56:18 23 Q. All right. Do you remember being asked this question --  
01:56:20 24 by the way, before -- can I withdraw that, your Honor?

01:56:24 25 THE COURT: Fine.

01:56:24 1 BY MR. LOEVY:

01:56:24 2 Q. You are aware substantively on the witness stand that it's  
01:56:27 3 an issue for the defense that Mr. Fields supposedly brought up  
01:56:30 4 these topics, you are aware of that, right?

01:56:32 5 MR. KULWIN: I am going to object.

01:56:33 6 THE COURT: Argumentative, sustained.

01:56:35 7 BY MR. LOEVY:

01:56:35 8 Q. Have you discussed that with Mr. Kulwin?

01:56:37 9 A. No.

01:56:38 10 Q. All right. This is page 10, line 21. Well, for example,  
01:56:47 11 when you asked Mr. Fields about, for example, when you asked  
01:56:51 12 him about the Guerillas?

01:56:54 13 "ANSWER: Yes.

01:56:55 14 "QUESTION: The special unit?

01:56:56 15 "ANSWER: Yes

01:56:58 16 "QUESTION: Did you ask him about the Guerilla squad?

01:57:02 17 "ANSWER: I believe he volunteered that information

01:57:04 18 "QUESTION: Do you recall?

01:57:05 19 "ANSWER: Not specifically

01:57:07 20 MR. KULWIN: Objection, Judge.

01:57:08 21 THE COURT: Overruled.

01:57:08 22 BY MR. LOEVY:

01:57:09 23 Q. Did you give that answer, sir?

01:57:10 24 A. Yes.

01:57:11 25 Q. Wouldn't it be fair to say 30 years ago, you have no idea

01:57:16 1 in response to any of these questions whether you brought it  
01:57:19 2 up or he brought it up?

01:57:20 3 A. I am just trying to relate what I remember about the  
01:57:25 4 conversation.

01:57:25 5 Q. Who brought up this idea about officers or generals that  
01:57:30 6 -- this part here that he said the shootings are typically  
01:57:34 7 planned and executed by the higher-ups in the gangs such as  
01:57:37 8 the generals. Who brought that up? You don't remember, do  
01:57:40 9 you?

01:57:40 10 A. No.

01:57:42 11 Q. Who brought up that supposedly the Goon Squad was having,  
01:57:51 12 you know, isn't it true this was about retaliation with the  
01:57:54 13 Goon Squad, you don't remember that either, do you?

01:57:56 14 A. Once again, as I testified, I believe he was the one who  
01:57:59 15 gave me that information.

01:58:00 16 Q. But you don't remember, right?

01:58:02 17 MR. KULWIN: Objection, Judge.

01:58:03 18 THE COURT: Overruled.

01:58:03 19 THE WITNESS: That's the way I remember it.

01:58:04 20 BY MR. LOEVY:

01:58:05 21 Q. Who brought up Earl Hawkins?

01:58:06 22 A. I believe I did.

01:58:08 23 Q. Who brought up the address of the murders?

01:58:10 24 A. I did.

01:58:11 25 Q. Who brought up Hank Andrews?

01:58:13 1 A. I believe I did.

01:58:14 2 Q. All right. If Mr. Fields was asked, hey, isn't it true  
01:58:27 3 this shooting was about some retaliation with the Goon Squad  
01:58:31 4 and he had said no, couldn't that later be argued that it was  
01:58:34 5 incriminating because he was lying about the reason about the  
01:58:37 6 motive?

01:58:38 7 MR. KULWIN: Objection, Judge, argumentative.

01:58:39 8 THE COURT: Sustained.

01:58:39 9 BY MR. LOEVY:

01:58:42 10 Q. Isn't it true that was a question that a person in an  
01:58:45 11 interrogation room couldn't win with that question?

01:58:49 12 MR. KULWIN: Objection, argumentative.

01:58:50 13 THE COURT: Sustained.

01:58:51 14 BY MR. LOEVY:

01:58:55 15 Q. All right. By the way, there was no such shooting  
01:58:58 16 referenced in the statement about that the Goon Squads and the  
01:59:02 17 El Rukns supposedly were fighting over a shooting, correct?

01:59:04 18 A. I don't understand your question, sir.

01:59:07 19 Q. To this day, you've never been provided any corroboration  
01:59:10 20 by the detectives or anybody else that there really was a  
01:59:13 21 shooting that precipitated Fuddy's murder, correct?

01:59:16 22 A. I am still not understanding your question.

01:59:21 23 Q. Do you remember what Mr. Fields was asked about whether  
01:59:25 24 there was retaliation and the shooting that business?

01:59:28 25 A. Sure.

01:59:28 1 Q. All right. Then the question is isn't it true O'Callaghan  
01:59:30 2 was never able to give you any proof that there was such a  
01:59:33 3 shooting?

01:59:34 4 MR. KULWIN: Objection, Judge, argumentative, calls  
01:59:35 5 for hearsay.

01:59:36 6 THE COURT: Overruled.

01:59:37 7 THE WITNESS: I don't know if there was a shooting or  
01:59:40 8 not.

01:59:41 9 BY MR. LOEVY:

01:59:42 10 Q. All right. Did O'Callaghan tell you that Randy Langston  
01:59:48 11 was a Goon Squad member?

01:59:49 12 A. Randy Langston?

01:59:53 13 Q. Yeah.

01:59:54 14 A. I don't recall that.

01:59:55 15 Q. He told you -- the eyewitnesses Randy Langston, Gerald  
02:00:00 16 Morris, that they weren't gang members, didn't he?

02:00:02 17 A. Correct.

02:00:02 18 Q. All right. And you now know that that wasn't true, right?

02:00:05 19 A. I don't know that.

02:00:06 20 Q. If that wasn't true, if Randy Langston and Gerald Morris  
02:00:10 21 were gang members, that might have been a piece of the puzzle  
02:00:14 22 you would have considered in approving charges, correct?

02:00:16 23 A. It could be.

02:00:16 24 Q. Especially if they were in the gang of the victim, right?

02:00:19 25 A. It could be.

02:00:22 1 Q. But you do remember being told that they weren't gang  
02:00:26 2 members, correct?

02:00:26 3 A. Correct.

02:00:26 4 Q. You were asked about sometimes the state's attorney would  
02:00:40 5 give people money to relocate. Do you remember those  
02:00:42 6 questions?

02:00:43 7 A. Yes.

02:00:43 8 Q. Who would typically be the one that would help them move  
02:00:46 9 and relocate, the state's attorneys have vectors that did  
02:00:49 10 that?

02:00:49 11 A. Yes.

02:00:50 12 Q. I mean, there was people whose job it was to do that,  
02:00:53 13 right?

02:00:53 14 A. Sometimes, yes. I mean, it depends on the manpower.

02:00:57 15 Q. All right. But it would not typically be the lead  
02:01:01 16 detective in the case, correct?

02:01:02 17 A. It varied from one situation to the next.

02:01:05 18 Q. But not typically, right?

02:01:07 19 MR. KULWIN: Judge, objection, asked and answered.

02:01:08 20 THE COURT: Overruled.

02:01:10 21 THE WITNESS: I don't know that there's any typical  
02:01:12 22 when it comes to relocation.

02:01:13 23 BY MR. LOEVY:

02:01:13 24 Q. All right. You were asked if you heard prior to 92 that  
02:01:22 25 Sumner had recanted. Do you remember that?

02:01:24 1 A. Yes.

02:01:24 2 Q. You're quite sure that the first time anybody told you was

02:01:27 3 1992, right?

02:01:28 4 A. From what I recall, yes.

02:01:30 5 Q. And if anybody had known in the '80s, 88, 89, then you

02:01:35 6 would have wanted to have known that, right?

02:01:39 7 A. Correct.

02:01:39 8 Q. All right. You were asked Nate Fields if he was treated

02:01:43 9 well by the police. Why did you ask that?

02:01:45 10 A. I always ask that.

02:01:46 11 Q. All right. And was there a concern on your part?

02:01:53 12 A. No.

02:01:53 13 Q. All right. He was held overnight for a crime that he

02:01:57 14 contends he didn't commit, correct?

02:01:58 15 A. I don't know what he contends, sir.

02:02:01 16 Q. Well, you do know that. You spoke to him, right?

02:02:03 17 A. Yeah.

02:02:04 18 Q. He told you I had nothing to do with the crime, right?

02:02:07 19 A. All right.

02:02:07 20 Q. He was forthcoming with information, though, was he not?

02:02:11 21 A. Yes.

02:02:11 22 Q. You said he didn't seem surprised. Was that going from

02:02:14 23 memory?

02:02:14 24 A. He, you know, just the conversation like I say, he was

02:02:21 25 calm, he was alert, there was no surprise, no outbursts or



02:02:26 1 anything like that.

02:02:27 2 Q. No outbursts, but you're not intending to imply like he  
02:02:31 3 knew you were going to charge him with Vaughn/White, did he?

02:02:33 4 A. I don't know what he knew.

02:02:34 5 Q. All right. But is that the implication you're trying to  
02:02:37 6 give, that he expected to be charged with Vaughn/White?

02:02:41 7 MR. KULWIN: Objection.

02:02:41 8 THE COURT: Sustained.

02:02:42 9 BY MR. LOEVY:

02:02:44 10 Q. All right. As the felony review prosecutor, you're  
02:02:46 11 aligned with the prosecution, correct?

02:02:47 12 A. I am there to determine if there is evidence for probable  
02:02:53 13 cause.

02:02:53 14 Q. And one of the things you have to do to make that  
02:02:59 15 determination is rely on what's told to you, correct?

02:03:02 16 A. Yes.

02:03:03 17 Q. And the reason you have to do that is because you don't  
02:03:08 18 speak necessarily to the witnesses, right?

02:03:09 19 A. Depending on the case, sometimes you do, sometimes you  
02:03:13 20 don't.

02:03:13 21 Q. Did you speak to Randy Langston?

02:03:14 22 A. No, I did not.

02:03:15 23 Q. Did you speak to Gerald Morris?

02:03:16 24 A. No, I did not.

02:03:18 25 Q. Did you speak to Eric Langston?

02:03:19 1 A. No, I did not.

02:03:20 2 Q. So when you decided there was probable cause to approve  
02:03:23 3 murder charges against Nate, would it be fair to say that you  
02:03:28 4 were relying entirely on Mr. O'Callaghan?

02:03:31 5 A. That's not correct.

02:03:32 6 Q. All right. Randy Langston, Gerald Morris, Eric Langston, a  
02:03:36 7 and your interview with Nate where he told you that he had  
02:03:36 8 nothing to do with it. What else factored into your probable  
02:03:38 9 cause decision?

02:03:38 10 A. Well, I knew that the felony review assistance along with  
02:03:43 11 the gang prosecution unit had interviewed these witnesses.

02:03:46 12 Q. These witnesses?

02:03:47 13 A. I spoke to the supervisor, had spoken to witnesses, I knew  
02:03:51 14 that the --

02:03:53 15 Q. Can we restrict it?

02:03:54 16 MR. KULWIN: Judge.

02:03:55 17 THE COURT: Complete the answer. He's answering the  
02:03:58 18 question you asked him. Complete the answer.

02:03:59 19 THE WITNESS: I knew that Ernest DiBenedetto was  
02:04:03 20 aware of that.

02:04:04 21 BY MR. LOEVY:

02:04:04 22 Q. That's on Vaughn/White, right?

02:04:05 23 A. That's on both cases.

02:04:06 24 Q. Okay. Smith/Hickman, Ernie DiBenedetto hadn't spoken to  
02:04:12 25 Randy Langston or Gerald Morris or any of those people either,

02:04:14 1 right?

02:04:14 2 A. I don't believe he personally spoke to them.

02:04:16 3 Q. All right. Were you -- was it represented to you by the  
02:04:18 4 police officers that the identifications by these eyewitnesses  
02:04:21 5 were legit?

02:04:23 6 A. That they made positive identifications.

02:04:26 7 Q. Right. But were they represented to be legitimate  
02:04:29 8 positive identifications?

02:04:30 9 A. I don't know what you mean by the term.

02:04:32 10 Q. In other words, I could say you did it, right? Anybody  
02:04:36 11 could say anything. Did the police officers satisfy you that  
02:04:40 12 they hadn't been coached, they hadn't been led, they had legit  
02:04:44 13 mately identified nature?

02:04:46 14 MR. KULWIN: Objection.

02:04:47 15 THE COURT: Overruled.

02:04:48 16 THE WITNESS: Once again, this was an ongoing  
02:04:51 17 investigation and there were other people looking at this  
02:04:53 18 before me.

02:04:54 19 BY MR. LOEVY:

02:04:54 20 Q. I'm only asking about you because you are the one who  
02:04:57 21 approved the charges, right, sir?

02:04:59 22 A. Yes.

02:04:59 23 Q. Did Mr. O'Callaghan in communicating with you assure you  
02:05:02 24 that these eyewitnesses were legitimately identifying Nate  
02:05:07 25 Fields, yes or no?

02:05:07 1 A. Yes.

02:05:07 2 Q. And when you decided to approve charges, at least in part,  
02:05:13 3 you relied on the fact that eyewitnesses pointed the finger at  
02:05:16 4 Nate and said he did it, right?

02:05:18 5 A. Correct.

02:05:18 6 Q. And in addition to the eyewitnesses, you had Anthony  
02:05:28 7 Sumner, right?

02:05:28 8 A. Yes.

02:05:29 9 Q. But the police had not come for probable cause charges  
02:05:35 10 based on Sumner alone before they had the eyewitnesses,  
02:05:38 11 correct?

02:05:39 12 MR. KULWIN: Objection, Judge.

02:05:40 13 THE COURT: The question is difficult to understand.  
02:05:42 14 Why don't you rephrase it.

02:05:44 15 BY MR. LOEVY:

02:05:44 16 Q. All right. The police came for charges after they had  
02:05:47 17 Sumner plus the eyewitnesses to corroborate, correct?

02:05:49 18 A. Yes.

02:05:53 19 Q. All right. When they just had Sumner without the  
02:05:55 20 eyewitnesses, they did not seek murder charges, that's the  
02:05:59 21 point I'm trying to make. That's true, right?

02:06:01 22 A. That's my understanding.

02:06:01 23 Q. Sumner alone was not sufficient to have probable cause for  
02:06:09 24 murder, correct?

02:06:09 25 A. Well, I can't answer that in a vacuum, sir.

02:06:16 1 Q. Showing you Plaintiff's Exhibit 133, page 12, this is the  
02:06:24 2 evidence -- this is in evidence, your Honor.

02:06:28 3 THE COURT: What's the exhibit number again?

02:06:30 4 MR. LOEVY: 133.

02:06:31 5 THE COURT: Thanks.

02:06:32 6 MR. LOEVY: Page 12.

02:06:33 7 BY MR. LOEVY:

02:06:36 8 Q. Can you tell the jury what we're looking at here?

02:06:38 9 A. This looks like a grand jury indictment account.

02:06:43 10 Q. All right. And it's hard to read, but it says that the  
02:06:48 11 following people without justification shot and killed the  
02:06:53 12 victims, right?

02:06:54 13 A. Yes.

02:06:54 14 Q. Okay. And Nate Fields is on there, right?

02:06:58 15 A. Yes.

02:06:58 16 Q. But he is on there in handwriting, right?

02:07:00 17 A. Correct.

02:07:00 18 Q. Tell the jury who it originally said shot and killed  
02:07:04 19 Talman Hickman?

02:07:05 20 A. I can't see that.

02:07:08 21 Q. All right.

02:07:10 22 MR. LOEVY: May I approach, your Honor?

02:07:11 23 THE COURT: That's fine.

02:07:12 24 BY MR. LOEVY:

02:07:14 25 Q. It says Earl Hawkins and George Carter, doesn't it?

02:07:16 1 A. I can't really tell.

02:07:32 2 Q. Can you see the screen? It's blown up a little bit?

02:07:35 3 A. A little too much.

02:07:36 4 Q. All right. This is Carter here at the bottom, right?

02:07:40 5 That looks like Carter, would you agree?

02:07:41 6 A. It looks like it, yes.

02:07:43 7 Q. And this sure looks like Earl, doesn't it?

02:07:45 8 A. It does.

02:07:47 9 Q. So are you the one who scratched out Earl Hawkins and

02:07:50 10 George Carter and wrote in Nathson Fields as the shooters?

02:07:53 11 A. No.

02:07:54 12 Q. Do you know who did?

02:07:56 13 A. No.

02:07:57 14 Q. Do you know why it used to say Earl Hawkins and George

02:08:00 15 Carter were the shooters?

02:08:02 16 A. I know at one time, I believe they were charged before

02:08:06 17 Nathson Fields was charged.

02:08:07 18 Q. It doesn't say -- it says that they actually shot and

02:08:11 19 killed, correct?

02:08:13 20 MR. KULWIN: Judge.

02:08:15 21 THE COURT: Sustained.

02:08:16 22 BY MR. LOEVY:

02:08:20 23 Q. Let's just talk briefly about the interrogation then. Did

02:08:24 24 you explain to Nate that you were a prosecutor and not a

02:08:27 25 defense attorney?

02:08:28 1 A. Correct.

02:08:28 2 Q. Were you confident he understood what you were saying?

02:08:31 3 A. Yes.

02:08:32 4 Q. And did you explain he had a right to talk to you without  
02:08:35 5 a lawyer?

02:08:35 6 A. Yes.

02:08:36 7 Q. And were you confident you communicated that?

02:08:41 8 A. Yes.

02:08:43 9 MR. LOEVY: Your Honor, my colleagues tell me that it  
02:08:45 10 wasn't on the jury's screen.

02:08:46 11 THE COURT: Maybe that thing isn't working. I'll let  
02:08:51 12 you put it backup.

02:08:52 13 MR. LOEVY: Thank you, your Honor.

02:08:52 14 THE COURT: You're right. I had the jury monitor  
02:08:55 15 turned off. For some reason that thing isn't working down  
02:08:58 16 there. Maybe it's coming back on.

02:09:01 17 Okay. So this is what he was pointing to earlier  
02:09:04 18 when he was trying to make out the names.

02:09:06 19 All right. The jury will have all these exhibits  
02:09:08 20 back during the deliberations.

02:09:10 21 BY MR. LOEVY:

02:09:10 22 Q. Without lawful justification unintentionally and knowingly  
02:09:16 23 shot and killed and that's where it says Earl Hawkins and  
02:09:19 24 George Carter you believe, correct, sir?

02:09:20 25 A. It looks like it.

02:09:21 1 THE COURT: All right. You can go ahead. Thanks for  
02:09:23 2 catching me on that.

02:09:24 3 BY MR. LOEVY:

02:09:25 4 Q. All right. You believe you communicated in clearly  
02:09:28 5 understandable language that he did not have to talk to you  
02:09:31 6 about these murders without a lawyer, correct?

02:09:33 7 A. Correct.

02:09:33 8 Q. He nonetheless chose to do that, correct?

02:09:36 9 A. That's correct.

02:09:36 10 Q. And he told you, according to your memo, that he was  
02:09:42 11 basically the guy in charge of paying the bills and keeping  
02:09:45 12 the upkeep of the building, correct?

02:09:46 13 A. Yes.

02:09:46 14 Q. He told you the murders and such were planned by the  
02:09:49 15 higher-ups in the organization and he had nothing to do with  
02:09:51 16 it, correct?

02:09:51 17 A. Correct.

02:09:52 18 Q. And he was very firm about that, correct?

02:09:53 19 A. That's what he said.

02:10:00 20 MR. LOEVY: I have no further questions, your Honor.

02:10:02 21 THE COURT: Mr. Kulwin.

02:10:05 22 - - -

02:10:05 23 JACK HYNES, REDIRECT EXAMINATION

02:10:05 24 BY MR. KULWIN:

02:10:18 25 Q. Mr. Hynes, you were just shown this document. Judge



02:10:25 1 Hynes. 133-12 and 13 and 14 and 15. I want to go over those  
02:10:45 2 for a second, if I may, Judge.

02:10:47 3 Now, you didn't put anybody in front of the grand  
02:10:59 4 jury on any of these murders, right?

02:11:01 5 A. Correct.

02:11:01 6 Q. Do you know who did?

02:11:03 7 A. No.

02:11:04 8 Q. Okay. Now, this appears that this is a form murder charge  
02:11:13 9 that actually?

02:11:14 10 MR. LOEVY: Objection, leading, your Honor.

02:11:15 11 THE COURT: Sustained.

02:11:17 12 BY MR. KULWIN:

02:11:18 13 Q. Are you aware that in fact Mr. Carter and Mr. Hawkins were  
02:11:21 14 charged in the murder of Talman Hickman and Jerome Smith?

02:11:28 15 A. Well, I knew that Hawkins was charged in both murders. I  
02:11:33 16 also knew that Hawkins and Carter were charged in the  
02:11:38 17 Smith/Hickman murder.

02:11:39 18 Q. So you don't know whether the prosecutor who put this in  
02:11:45 19 front of a grand jury just simply used the Carter Hawkins form  
02:11:52 20 and put it in front of the grand jury?

02:11:53 21 A. No.

02:11:54 22 THE COURT: I will just remind the jury as I have  
02:11:57 23 done about a dozen times that questions are not evidence.

02:12:00 24 BY MR. KULWIN:

02:12:02 25 Q. Another document that's in the file is this one, 113-11.

02:12:06 1 First of all, let me just zoom out on this for a second.

02:12:14 2 Have you seen forms like this before?

02:12:16 3 A. Yes.

02:12:16 4 Q. What is it?

02:12:17 5 A. It's a charging form that would be filled out by the  
02:12:23 6 assistant state's attorney at some point during the grand jury  
02:12:28 7 process setting forth the charges and the particulars set  
02:12:35 8 forth on that form.

02:12:36 9 Q. It says TQ on the top, who is TQ?

02:12:41 10 A. That would be Tim Quinn.

02:12:42 11 Q. And what was his position?

02:12:44 12 A. He was supervisor of grant 6 of.

02:12:47 13 Q. And right there it says Larry Wharrie?

02:12:50 14 A. Yes.

02:12:50 15 Q. At the bottom it says -- and then it lists four separate  
02:12:54 16 murder charges, correct?

02:12:55 17 A. Correct.

02:12:55 18 Q. At the bottom it says see attached indictment for  
02:13:01 19 co-defendant. Use same language. Do you see that?

02:13:04 20 A. Yes.

02:13:05 21 Q. And of course, with the co-defendant, that's exactly what  
02:13:08 22 he did, he used the same language, right, that's what it says?

02:13:12 23 A. Yes.

02:13:13 24 MR. LOEVY: Objection, your Honor.

02:13:13 25 THE COURT: Overruled to that particular question.

02:13:16 1 BY MR. KULWIN:

02:13:17 2 Q. This is PX 113-12. And PX?

02:13:25 3 THE COURT: PX means Plaintiff's Exhibit.

02:13:28 4 MR. KULWIN: Sorry about that, Judge.

02:13:29 5 BY MR. KULWIN:

02:13:30 6 Q. Plaintiff's Exhibit 113-13, right?

02:13:34 7 A. All right.

02:13:34 8 Q. And then Plaintiff's Exhibit 113-14, right?

02:13:39 9 A. Yes.

02:13:40 10 Q. And then Plaintiff's Exhibit 113-15, right, same language  
02:13:47 11 each time, right?

02:13:48 12 A. Yes.

02:13:48 13 Q. Now, you were asked some questions about who brought up  
02:13:54 14 what first. Do you remember those questions?

02:13:56 15 A. Yes.

02:13:56 16 Q. Okay. Now, in your memo, though, you note this.

02:14:11 17 Detective O'Callaghan also informed witnesses on both cases  
02:14:14 18 had been previously interviewed by assistant state's  
02:14:17 19 attorney's from gang crimes unit and felony review, I then  
02:14:20 20 read all the available reports, right?

02:14:22 21 A. Yes.

02:14:22 22 Q. And in the reports it did show in fact that lot of the  
02:14:25 23 witnesses in both these cases at least in the Vaughn/White  
02:14:28 24 case in particular had been interviewed by assistant state's  
02:14:32 25 attorney in the gang crime unit?

02:14:34 1 MR. LOEVY: Objection.

02:14:34 2 THE COURT: Sustained.

02:14:34 3 BY MR. KULWIN:

02:14:36 4 Q. Do you recall that's what the report indicated, sir?

02:14:38 5 A. That's what I recall.

02:14:39 6 Q. Now, then in your report, you say, when you say that you

02:14:46 7 were questioning in your report, it says Fields was then

02:14:49 8 questioned regarding his association with Earl Hawkins and

02:14:51 9 George Carter who were previously charged with the murders.

02:14:55 10 Right? You specifically note that he was questioned about a  
02:14:58 11 specific topic?

02:14:59 12 A. Yes.

02:14:59 13 MR. LOEVY: Objection, leading, your Honor.

02:15:01 14 THE COURT: Stop leading, please.

02:15:04 15 BY MR. KULWIN:

02:15:04 16 Q. Okay. Immediately before the guerrilla, I'll point your  
02:15:12 17 attention to the bottom of page one of your report.

02:15:18 18 A. Yes.

02:15:20 19 Q. Okay. Now, right before it says in summary, is there  
02:15:29 20 anything in there that says Fields was questioned right before  
02:15:32 21 in summary on the bottom, the last paragraph, sir, in the  
02:15:36 22 bottom?

02:15:37 23 A. In summary, Fields stated.

02:15:38 24 Q. Before you read that, I apologize, does it say Fields was  
02:15:42 25 questioned about it right there or does it just say in

02:15:44 1 summary?

02:15:45 2 MR. LOEVY: Objection, your Honor.

02:15:46 3 THE COURT: I think we can all read what it says.

02:15:49 4 Let's get to an actual question.

02:15:51 5 BY MR. KULWIN:

02:15:52 6 Q. Sorry about that.

02:15:53 7 THE COURT: Okay.

02:15:53 8 BY MR. KULWIN:

02:15:54 9 Q. What does it say, can you read for it us what it says Mr.

02:15:58 10 Fields said in summary?

02:15:58 11 A. In summary, Fields stated that he was an ambassador with

02:16:01 12 the El Rukn street gang and that his duties were to keep

02:16:03 13 records and to pay utility bills on the buildings owned by the

02:16:06 14 El Rukns.

02:16:07 15 Q. Keep going on the next page, what does he say he said, Mr.

02:16:14 16 Fields said?

02:16:15 17 MR. LOEVY: Objection, your Honor. It does not say

02:16:17 18 that.

02:16:17 19 THE COURT: It says he said. So, yeah, it does.

02:16:23 20 BY MR. KULWIN:

02:16:23 21 Q. Go ahead?

02:16:24 22 A. He said that he was an original member of the Blackstone

02:16:28 23 Rangers in the '60s and that now he is an El Rukn trying to

02:16:29 24 rise through the organization by showing his loyalty to the

02:16:31 25 gang. He went on to deny any involvement in either the March

02:16:36 1 28th, 1985, double murder or the April 28th, 1984 double  
02:16:40 2 murder. He said shootings are typically planned and executed  
02:16:44 3 by higher-ups in the gangs such as generals. Fields said that  
02:16:48 4 there is a group within the El Rukns known as the gorillas who  
02:16:53 5 handled special assignments such as hits for large drug  
02:16:56 6 transactions.

02:16:56 7 Q. Let me stop you right there for a second. This  
02:16:58 8 information that you put in here, where did it come from  
02:17:02 9 before he put it in the memo?

02:17:03 10 A. That came from Mr. Fields.

02:17:04 11 Q. Okay. Now, go on, the in ex paragraph?

02:17:08 12 A. Fields was then questioned regarding his association with  
02:17:11 13 Earl Hawkins and George Carter who were previously charged  
02:17:14 14 with the murders. Fields said he knew Earl Hawkins because he  
02:17:18 15 is a general in the El Rukns and he knew Hawkins rode with  
02:17:22 16 Anthony Sumner. He also stated that he knew George Carter who  
02:17:26 17 was also a general in the El Rukns, and he knew Carter rode  
02:17:31 18 with Henry Andrews. Fields also said he heard that Jerome  
02:17:36 19 Smith, AKA Fuddy was a member of the Goon Squad disciples and  
02:17:40 20 that he was shot in retaliation for the shooting of two El  
02:17:44 21 Rukns by the disciples. Fields said this was all he knew of  
02:17:47 22 the incident.

02:17:48 23 Q. Let me stop you right there. Where did this information  
02:17:50 24 come from?

02:17:50 25 A. From Mr. Fields.

02:17:52 1 Q. Now, you were asked a bunch of questions whether 30 years  
02:17:55 2 later can you remember who said did you bring it up, did he  
02:17:59 3 bring it up, is this memo the best record of how the  
02:18:02 4 conversation went as far as you can recall?

02:18:03 5 A. As far as I can recall.

02:18:04 6 Q. Okay. You were asked some questions about how you  
02:18:08 7 remember how Mr. Fields looked or how he reacted, look at the  
02:18:11 8 last paragraph. Can you read that one for us?

02:18:14 9 A. During the entire conversation, knowledge that the entire  
02:18:16 10 was alert, calm and sober. He was not handcuffed during my  
02:18:20 11 conversation with him. Though threats or promises were made  
02:18:22 12 to Fields and no force of any kind was used against him.

02:18:25 13 Q. Is that a true statement at the time you wrote it?

02:18:27 14 A. Yes.

02:18:27 15 Q. So, again, you were asked these questions -- I'll withdraw  
02:18:35 16 that question.

02:18:36 17 Now, you were asked some questions about whether or  
02:18:54 18 not the first time you saw charges, approved charges against  
02:18:59 19 Nate Fields was after he was arrested, do you remember those  
02:19:02 20 questions? Let me withdraw that. That was a poor question.

02:19:06 21 You were asked some questions about whether you had  
02:19:09 22 approved charges before June 14th, 1985. You were asked those  
02:19:15 23 questions?

02:19:15 24 A. Yes.

02:19:15 25 Q. Judge Hynes, was the first time that Mr. Fields was

02:19:23 1 arrested and in custody June 14th, 1985, to the best of your  
02:19:26 2 knowledge?

02:19:26 3 A. I am not sure I understand that.

02:19:29 4 Q. Okay. When was the first time -- when you were presented  
02:19:35 5 the opportunity whether or not you were going to approve  
02:19:39 6 charges or not, how long after that request was made had Mr.  
02:19:44 7 Fields been arrested, if you know?

02:19:45 8 A. I believe the day before he was stopped for a traffic  
02:19:49 9 violation.

02:19:50 10 Q. Okay. And, of course, you were asked asked some questions  
02:19:56 11 about whether or not you interviewed witnesses. Do you  
02:20:00 12 remember those questions?

02:20:00 13 A. Yes.

02:20:01 14 Q. In this case, you interviewed the main witness, didn't  
02:20:04 15 you, Nathson Fields?

02:20:07 16 A. Yes.

02:20:08 17 Q. You were asked some questions on whether you relied,  
02:20:35 18 whether the only thing you relied on or one of the main things  
02:20:38 19 you relied on was whether or not O'Callaghan told you it was a  
02:20:41 20 quote-unquote legitimate identification. Do you remember  
02:20:44 21 those questions?

02:20:44 22 A. Yes.

02:20:45 23 Q. Were you advised whether by Detective O'Callaghan, were  
02:20:52 24 you advised whether Mr. Fields had been placed in lineups that  
02:20:55 25 night?



02:20:55 1 A. Yes.

02:20:55 2 Q. What did he tell you about what happened at the lineups?

02:20:57 3 A. He said he was identified by three eyewitnesses,  
02:21:02 4 positively identified.

02:21:02 5 Q. By the way, did you ever hear of any evidence that during  
02:21:08 6 the interview, during the lineups, Detective O'Callaghan came  
02:21:12 7 around out of the viewing room, into the lineup room, stood in  
02:21:16 8 front of the people using the lineup, picked up Mr. Fields'  
02:21:19 9 sleeves while a cameraman took pictures of the entire thing,  
02:21:24 10 did you ever hear anything like that?

02:21:25 11 MR. LOEVY: Objection, foundation.

02:21:26 12 THE COURT: Overruled.

02:21:27 13 THE WITNESS: No.

02:21:28 14 BY MR. KULWIN:

02:21:29 15 Q. Did Mr. Fields that very night say to you at any time,  
02:21:32 16 listen, by the way, this lineup I was just in was really  
02:21:36 17 weird, can I talk to you about that, did he say that?

02:21:38 18 MR. LOEVY: Objection.

02:21:38 19 THE COURT: Sustained.

02:21:39 20 BY MR. KULWIN:

02:21:40 21 Q. Did he bring up -- you said you were alone for him for  
02:21:44 22 several minutes after the detectives left, right?

02:21:47 23 A. Yes.

02:21:47 24 Q. Did he relate to you anything unusual while the detectives  
02:21:50 25 were out of the room about what happened during the lineup in

02:21:53 1 which he was positively identified?

02:21:55 2 A. No.

02:21:55 3 Q. You were asked some questions about what side of the table  
02:22:07 4 you were on and which side of the table you're aligned, do you  
02:22:10 5 remember those questions?

02:22:10 6 A. Yes.

02:22:11 7 Q. Judge Hynes, when you're an assistant state's attorney in  
02:22:14 8 felony review and you're reviewing information, did you  
02:22:17 9 understand at that time the seriousness of the job that you  
02:22:22 10 had?

02:22:22 11 MR. LOEVY: Objection, your Honor.

02:22:23 12 THE COURT: Overruled.

02:22:24 13 THE WITNESS: Yes.

02:22:27 14 BY MR. KULWIN:

02:22:27 15 Q. Did it matter that you had only been out of law school for  
02:22:31 16 three years, did that affect your ability to perceive the  
02:22:33 17 seriousness of the job that you had?

02:22:35 18 A. No, it did not.

02:22:36 19 Q. Did you feel after three -- how many cases had you been on  
02:22:39 20 felony review before you had that case?

02:22:40 21 A. Well, I don't know. You know, probably hundreds.

02:22:44 22 Q. Were you the type of prosecutor who just said, gosh, I  
02:22:50 23 don't really know what I'm doing, I think I'll just rely on  
02:22:53 24 these experienced detectives?

02:22:54 25 THE COURT: The objection is sustained.

02:22:55 1 BY MR. KULWIN:

02:22:56 2 Q. Did you rely on your own ability, training as a lawyer,  
02:22:59 3 training as a state's attorney and the seriousness of the  
02:23:02 4 position that you held in determining whether serious charges  
02:23:05 5 should be brought in this case?

02:23:06 6 MR. LOEVY: Same objection.

02:23:07 7 THE COURT: Overruled.

02:23:08 8 THE WITNESS: Yes.

02:23:08 9 BY MR. KULWIN:

02:23:12 10 Q. You were asked some questions about whether or not Mr.  
02:23:16 11 Fields firmly denied that he was ever involved in either of  
02:23:20 12 those murders, do you remember those questions?

02:23:22 13 A. Yes.

02:23:22 14 Q. And whether he voluntarily spoke to you without a lawyer.  
02:23:25 15 Do you remember those questions?

02:23:25 16 A. Yes.

02:23:25 17 Q. Sir, in your experience, was it unusual for people to say  
02:23:30 18 I'll talk to you without a lawyer, that happened?

02:23:32 19 A. Yes.

02:23:33 20 Q. Okay. And sometimes they admitted the crime and sometimes  
02:23:41 21 they denied the crime?

02:23:42 22 MR. LOEVY: Objection.

02:23:42 23 THE COURT: Sustained.

02:23:42 24 BY MR. KULWIN:

02:23:47 25 Q. Did the fact that Mr. Fields was denying the crime in your

02:23:50 1 view based on all the evidence that you had seen with respect  
02:23:53 2 to Smith/Hickman make you think I shouldn't approve charges  
02:23:57 3 here?

02:23:58 4 MR. LOEVY: Objection, your Honor.

02:23:58 5 THE COURT: Overruled.

02:23:59 6 THE WITNESS: No.

02:24:00 7 MR. KULWIN: If I may have a moment, your Honor.

02:24:15 8 (Brief pause.)

02:24:43 9 BY MR. KULWIN:

02:24:44 10 Q. You were asked some questions, sir, about whether the  
02:24:49 11 information from Anthony Sumner was sufficient to approve  
02:24:53 12 charges. In the Vaughn/White case, what was the -- what was  
02:24:57 13 the office relying onto approve the charges?

02:24:59 14 A. Well.

02:25:02 15 THE COURT: You can't ask that question that way.  
02:25:04 16 It's covered by a prior ruling.

02:25:05 17 MR. KULWIN: Judge, I put it the wrong way.

02:25:08 18 BY MR. KULWIN:

02:25:09 19 Q. On another topic, to your knowledge, can final approval  
02:25:13 20 for charges, felony charges, be brought against somebody while  
02:25:17 21 -- before they're arrested, before they're in custody? Do you  
02:25:20 22 know?

02:25:20 23 A. That's a hard question to answer in a hypothetical.

02:25:26 24 Q. I'm sorry?

02:25:27 25 A. It's a hard question to answer in a hypothetical.

02:25:30 1 Q. All right.

02:25:32 2 MR. KULWIN: I don't have any other questions, Judge.

02:25:35 3 THE COURT: Was there going to be a recross?

02:25:38 4 MR. LOEVY: Just one.

02:25:39 5 THE COURT: Okay.

02:25:41 6 - - -

02:25:41 7 JACK HYNES, RECROSS-EXAMINATION

02:25:41 8 BY MR. LOEVY:

02:25:42 9 Q. Given the seriousness of the probable cause determination,  
02:25:46 10 you as the felony review prosecutor necessarily had to have in  
02:25:50 11 place quite a bit of trust in the detective who was telling  
02:25:55 12 you that these identifications were legit, can we agree on  
02:25:58 13 that?

02:25:59 14 A. I trusted the detectives.

02:26:01 15 MR. LOEVY: No further questions, your Honor.

02:26:03 16 THE COURT: Do any of the jurors have any questions  
02:26:04 17 for the witness? Thanks. You're excused.

02:26:07 18 THE WITNESS: Thank you, Judge.

02:26:08 19 THE COURT: Please call the next witness.

02:26:11 20 MR. MICHALIK: Defense calls Robert Evans. Be.

02:26:45 21 MR. KULWIN: Your Honor, can we be heard at sidebar  
02:26:47 22 real quick?

02:26:48 23 THE COURT: No. I am pretty sure I know what it's  
02:26:51 24 about. It's going to wait until a break. The break is going  
02:26:54 25 to be at about 3:00.

02:26:57 1 MR. KULWIN: All right. Thanks.

02:26:58 2 THE COURT: Judges are mind readers just so you know.  
02:27:01 3 It's pre-employment qualification. You have to go through a  
02:27:04 4 test.

02:27:31 5 (Witness sworn.)

02:27:31 6 - - -

02:27:31 7 ROBERT EVANS, DIRECT EXAMINATION

02:27:31 8 BY MR. MICHALIK:

02:27:44 9 Q. Good afternoon. Could you please state and spell your  
02:27:46 10 name for the record?

02:27:47 11 A. My name is Robert Evans, last name is spelled Evans.

02:27:51 12 Q. You previously were a member of the Chicago Police  
02:27:55 13 Department?

02:27:55 14 A. I was.

02:27:56 15 Q. When did you start with the police department?

02:27:58 16 A. I was hired on as a civilian back in 1968 as a police  
02:28:03 17 cadet and then in 1971, in July, I went on the job as a sworn  
02:28:11 18 police officer.

02:28:11 19 Q. As a patrolman?

02:28:14 20 A. Yes, sir.

02:28:15 21 Q. Did you eventually become a detective?

02:28:16 22 A. That was in August of 1982.

02:28:18 23 Q. All right. In August of 1982, where were you assigned as  
02:28:23 24 a detective?

02:28:23 25 A. I was assigned to area one violent crimes.

02:28:26 1 Q. Now, we've heard about area one violent crimes. Are there  
02:28:30 2 different detective units at area one at that time?  
02:28:33 3 A. At that time, there were two different detective units.  
02:28:37 4 Q. What were they?  
02:28:38 5 A. Violent crimes and property crimes.  
02:28:41 6 Q. What would the homicide fall under the violent crimes of  
02:28:50 7 the detective division?  
02:28:51 8 A. Yes, it did.  
02:28:51 9 Q. Were you assigned to area one violent crimes in April of  
02:28:55 10 1984?  
02:28:57 11 A. I was.  
02:28:57 12 Q. How long did you remain as a detective with the Chicago  
02:29:02 13 Police Department?  
02:29:02 14 A. I was promoted to sergeant in December of 1986.  
02:29:05 15 Q. Did you eventually receive another promotion?  
02:29:09 16 A. I was promoted then to lieutenant in December of 1988.  
02:29:13 17 Q. How long did you serve as a lieutenant?  
02:29:15 18 A. For approximately 12 years.  
02:29:17 19 Q. Okay. Did you then get another promotion?  
02:29:21 20 A. I was promoted to captain in the year 2000.  
02:29:24 21 Q. Any further promotions?  
02:29:26 22 A. I was promoted commander in 2005.  
02:29:30 23 Q. How long did you serve as a commander with the Chicago  
02:29:33 24 Police Department?  
02:29:33 25 A. For three years.

02:29:35 1 Q. Did you retire as a commander?

02:29:37 2 A. Yes, I did.

02:29:38 3 Q. When was that?

02:29:39 4 A. November of 2008.

02:29:41 5 Q. Sir, I'd like to take you back in time to April 28, 1984,

02:29:48 6 a Saturday morning. Were you working that day?

02:29:49 7 A. Yes, I was.

02:29:50 8 Q. Were you working as a violent crimes detective at area

02:29:55 9 one?

02:29:55 10 A. I was, yes.

02:29:56 11 Q. Did you have a partner that day?

02:29:57 12 A. Steven Hood.

02:29:59 13 Q. What, if anything, happened around 10:15 or 10:30 that

02:30:04 14 morning?

02:30:04 15 A. We were on our way back into the station and we heard what

02:30:09 16 is referred to as an all call broadcast.

02:30:12 17 Q. What is an all call broadcast?

02:30:14 18 A. An all call broadcast would be an emergency situation

02:30:17 19 where the dispatcher would send the call out to a number of

02:30:24 20 radio zones across the city for any -- for responses from any

02:30:29 21 units that would hear the call.

02:30:31 22 Q. What was the information that was provided in that all

02:30:34 23 call on the morning of April 28, 1984?

02:30:37 24 A. The call was two men shot on the street at 706 East 39th

02:30:43 25 Street.



02:30:43 1 Q. Did you do anything after you got that call?

02:30:46 2 A. Yes, we proceeded to the scene directly.

02:30:50 3 Q. Okay. Can we see Defendant's Exhibit 1 H.

02:31:00 4 MR. MICHALIK: Judge, this is in evidence.

02:31:12 5 THE COURT: I'll flip it so the jury can see it.

02:31:14 6 BY MR. MICHALIK:

02:31:15 7 Q. Can you describe what you see here on Exhibit 1 H, please?

02:31:18 8 A. That appears to be the 706 East 39th Street building with

02:31:25 9 a number of people out in front.

02:31:28 10 Q. Does this reflect the scene at 706 East 39th Street when

02:31:33 11 you arrived on the morning of April 28, 1984, in response to

02:31:38 12 the all call?

02:31:38 13 A. Yes, there were several police uniformed police units

02:31:43 14 already at the scene, but the crowd, this accurately depicts

02:31:49 15 the size of the crowd, in fact, it probably even got bigger.

02:31:52 16 Q. Okay. And that was you and Detective Hood who responded

02:31:54 17 to that scene?

02:31:55 18 A. Yes, sir.

02:31:56 19 Q. All right. Now, what did you and Detective Hood first do

02:32:04 20 upon arriving at the scene?

02:32:05 21 A. When you get a call of that nature, we try to render first

02:32:11 22 aid if at all possible.

02:32:13 23 Q. Were you able to do so?

02:32:14 24 A. No, it appeared that both of these individuals had been

02:32:16 25 shot in the head.

02:32:18 1 Q. What did you do next?

02:32:20 2 A. Well, an ambulance arrived shortly after that and we  
02:32:26 3 realized that there was -- both these individuals had passed  
02:32:29 4 away.

02:32:29 5 Q. Were there any other Chicago Police Department personnel  
02:32:34 6 at the scene when you arrived?

02:32:35 7 A. Yes, we utilized them to control the access to the crime  
02:32:40 8 scene because this actually was before the days of crime scene  
02:32:45 9 tape, now it seems to be everywhere, but we had to use  
02:32:49 10 physical bodies to keep people back from the crime scene at  
02:32:52 11 that time.

02:32:52 12 Q. And you used actual police officers to cordon off the  
02:32:56 13 crime scene area?

02:32:58 14 A. Correct.

02:32:58 15 Q. Did you do anything to preserve the scene?

02:33:00 16 A. Well, what we try to do is make sure that everything is as  
02:33:06 17 it was when we -- when it first occurred, and we then  
02:33:10 18 contacted the crime lab unit would come and process for any  
02:33:15 19 evidence on the scene.

02:33:17 20 Q. Did you and your partner conduct any sort of an  
02:33:20 21 investigation at the scene?

02:33:21 22 A. Yes, we did.

02:33:22 23 Q. What did you do?

02:33:23 24 A. We interviewed several people, we noted exactly who was on  
02:33:31 25 the scene itself, we contacted our office, sergeant McCrae was

02:33:37 1 working that day, and he responded to the scene with  
02:33:40 2 additional detectives.  
02:33:42 3 Q. Did you and the other detectives canvass the area?  
02:33:45 4 A. Yes, we did.  
02:33:45 5 Q. All right. And do you have any recollection of  
02:33:50 6 approximately how many different individuals you talked to at  
02:33:53 7 the scene?  
02:33:53 8 A. A countless number.  
02:33:57 9 Q. Were any --  
02:33:58 10 A. Sometimes people are reluctant to speak to the police  
02:34:02 11 given the circumstances.  
02:34:03 12 Q. Were any of them willing to give you information?  
02:34:05 13 A. Some were.  
02:34:06 14 Q. Now, if you talked to someone at the scene who was unable  
02:34:10 15 or unwilling to provide you with information, would you write  
02:34:13 16 that down?  
02:34:13 17 A. There's no need to.  
02:34:15 18 Q. Why not?  
02:34:16 19 A. It would be a waste of time first of all.  
02:34:19 20 Q. If you talked to someone who said he or she did have some  
02:34:21 21 information, would you interview that person?  
02:34:23 22 A. We would attempt to, yes.  
02:34:25 23 Q. All right. You said that some other detectives were  
02:34:28 24 assigned to this scene?  
02:34:29 25 A. Yes, there were.

02:34:30 1 Q. And there was VanBerschot, Carol and Fields?

02:34:34 2 A. Correct.

02:34:35 3 Q. And sergeant McCrae also came out to the scene?

02:34:38 4 A. Yes, he did.

02:34:39 5 Q. Now, I'd like to ask you some questions about your

02:34:44 6 reporting responsibilities. As the first detectives who

02:34:47 7 arrived at the scene, did you have any particular

02:34:51 8 responsibilities with respect to report preparation?

02:34:54 9 A. Our responsibility was to prepare the initial crime scene

02:34:59 10 report.

02:34:59 11 Q. And that's because you were the first detectives at the

02:35:02 12 scene?

02:35:02 13 A. Yes, sir.

02:35:02 14 Q. And did you have that responsibility for the Smith/Hickman

02:35:07 15 murders?

02:35:08 16 A. Yes, we did use.

02:35:15 17 MR. MICHALIK: If I could see Defendant's Exhibit 60.

02:35:18 18 BY MR. MICHALIK:

02:35:18 19 Q. All right. Do you recognize what's on the screen as

02:35:21 20 Defense Exhibit number 60?

02:35:23 21 A. Yes, I do.

02:35:23 22 Q. What is it?

02:35:31 23 A. It looks like the front page of our supplementary report

02:35:35 24 regarding the Hickman Smith double homicide.

02:35:39 25 Q. And this is what you referred to earlier as the scene

02:35:41 1 report?

02:35:42 2 A. Correct.

02:35:42 3 Q. Who prepared this report?

02:35:46 4 A. I did.

02:35:46 5 Q. Who typed it up?

02:35:48 6 A. I did.

02:35:48 7 Q. What is the date of this report?

02:35:51 8 A. The date of report is the 28th of April 1984, the day the

02:35:56 9 incident occurred.

02:35:57 10 Q. And when is the date that you typed it up?

02:35:59 11 A. It was the 28th of April.

02:36:00 12 Q. Did you sign this report?

02:36:02 13 A. I did.

02:36:02 14 Q. Is that your signature reflected in the lower left-hand

02:36:06 15 corner on the first page of Exhibit 60?

02:36:09 16 A. It is.

02:36:10 17 Q. Did your partner sign the report as well?

02:36:13 18 A. Yes, he did.

02:36:14 19 Q. And that's Steven Hood?

02:36:16 20 A. Correct.

02:36:16 21 Q. And then finally, did a supervisor approve and sign this

02:36:21 22 report?

02:36:21 23 A. Yes, sergeant braid b-r-i-n-GE.

02:36:26 24 Q. And his signature is reflected in the lower right-hand

02:36:29 25 corner?

02:36:29 1 A. Correct.

02:36:29 2 Q. And it looks like the report was approved on April 28,  
02:36:32 3 1984?

02:36:32 4 A. Yes, it was.

02:36:33 5 Q. At what point during your shift on April 28, 1984, did you  
02:36:38 6 prepare this report?

02:36:39 7 A. That was at the end of our shift.

02:36:41 8 Q. All right. I'd like to go through some of the details of  
02:36:46 9 the report.

02:36:47 10 First off, in preparing a report like this, is there  
02:36:53 11 any particular format that Chicago detectives were supposed to  
02:36:55 12 follow?

02:36:56 13 A. Yes, there is a homicide format that we follow.

02:36:58 14 Q. Is that homicide form generally provide various lists of  
02:37:03 15 information that are to be included in a scene report?

02:37:06 16 A. Yes, it does.

02:37:06 17 Q. Did you follow those guidelines in preparing this  
02:37:11 18 particular report?

02:37:12 19 A. Yes, we did.

02:37:13 20 Q. All right. If we start off on the first page here, it  
02:37:17 21 looks like the first section is victim. And there are two  
02:37:22 22 victims listed?

02:37:22 23 A. Yes.

02:37:23 24 Q. All right. What information is included in that  
02:37:27 25 particular section?

02:37:27 1 A. The names of the victims, the sex, race, age, date of  
02:37:34 2 birth, address, telephone number, marital status, employment  
02:37:39 3 status, Social Security number, and the Chicago police  
02:37:43 4 department identification records number.

02:37:44 5 Q. All right. What is the Chicago Police Department  
02:37:47 6 identification records number refer to?

02:37:49 7 A. When someone is arrested by the Chicago Police Department  
02:37:53 8 and fingerprinted and photographed, they receive a Chicago  
02:37:59 9 Police Department records number.

02:38:00 10 Q. Okay. So these individuals both had some previous contact  
02:38:04 11 with the Chicago Police Department?

02:38:05 12 A. Correct.

02:38:05 13 Q. All right. If we could go to the next page, 60-2.

02:38:14 14 All right. The next section I want to ask you about,  
02:38:17 15 sir, is the section that says wanted. Do you see that?

02:38:20 16 A. Yes, I do.

02:38:21 17 Q. At the top of this second page.

02:38:23 18 All right. This information here, what is that based  
02:38:34 19 on?

02:38:34 20 A. That's based on the individuals that we spoke with at the  
02:38:38 21 scene who gave us a description of people that were involved  
02:38:42 22 in the shooting.

02:38:45 23 MR. MICHALIK: If we could see Plaintiff's Exhibit  
02:38:47 24 21, please.

02:38:48 25 BY MR. MICHALIK:

02:38:52 1 Q. All right. For the record, this is Plaintiff's Exhibit 21  
02:38:55 2 which is 8 pages of general progress reports. The first page  
02:38:59 3 here, does this contain your writing?

02:39:00 4 A. Yes, it is.

02:39:02 5 Q. So you were using these GPR forms in April of 1984 when  
02:39:06 6 you were investigating this particular double homicide?

02:39:09 7 A. Correct.

02:39:09 8 Q. All right. If I could take a look at page 7, 21-7.

02:39:15 9 BY MR. MICHALIK:

02:39:18 10 Q. Can you tell me what this particular page is?

02:39:22 11 A. That looks like it was prepared by detective Jon  
02:39:26 12 VanBerschot.

02:39:26 13 Q. And that's also on the general progress report?

02:39:28 14 A. Correct.

02:39:29 15 Q. Looking at the top third of this particular exhibit, do  
02:39:38 16 you see that there, sir?

02:39:39 17 A. Yes, I do.

02:39:40 18 Q. What information does that reflect?

02:39:48 19 A. A description of the offender is given by Eric Benson.

02:39:53 20 Q. All right. Eric Benson's name here is on the second from  
02:39:56 21 the bottom line that we are seeing on the cut out?

02:39:59 22 A. Correct.

02:39:59 23 Q. And he's listed to be nine years old?

02:40:03 24 A. Yes.

02:40:03 25 Q. Does this information reflect -- does this particular



02:40:09 1 section of the GPR reflect information that was obtained by  
02:40:11 2 Detective VanBerschot?  
02:40:13 3 A. Yes, it does.  
02:40:14 4 Q. And according to this note, what does Eric Benson tell  
02:40:22 5 Detective VanBerschot that he saw?  
02:40:24 6 A. The individuals came from behind, each had a gun, and each  
02:40:32 7 shot one of the victims in the back of the head.  
02:40:34 8 Q. Did Eric Benson provide Detective VanBerschot with any  
02:40:39 9 description of the individuals he saw?  
02:40:41 10 A. He said that one had long hair down to the neck, he gave a  
02:40:47 11 clothing description as well.  
02:40:48 12 Q. And looking over here, does it also say that one of the  
02:40:54 13 offenders had earrings in the right ear?  
02:40:57 14 A. Correct.  
02:40:57 15 Q. If we could now see Plaintiff's Exhibit 21-5, please.  
02:41:13 16 BY MR. MICHALIK:  
02:41:16 17 Q. Do you recognize the writing on this particular page?  
02:41:18 18 A. I believe that's my partner's.  
02:41:20 19 Q. All right. And that was Detective Hood?  
02:41:24 20 A. Detective Hood.  
02:41:24 21 Q. All right. Toward the bottom, do you see a reference  
02:41:28 22 here, at the very bottom to a Cleveland Ball?  
02:41:30 23 A. Yes, I do.  
02:41:31 24 Q. Did you and Detective Hood speak to Cleveland Ball on  
02:41:34 25 April 28, 1984?

02:41:36 1 A. Yes, we did.

02:41:37 2 Q. And was Mr. Ball the source of the information that is

02:41:40 3 shown in the bottom third of this particular note?

02:41:43 4 A. It is.

02:41:44 5 Q. Did Mr. Ball provide a description of the shooters?

02:41:58 6 A. Yes, he did.

02:42:00 7 Q. What did he is?

02:42:01 8 A. He said that it the one in the blue jogging suit was five,

02:42:07 9 11, 23 years of age medium build and had a red skull cap.

02:42:12 10 Q. Did he provide a description of the other offenders?

02:42:15 11 A. Yes, that an individual was wearing a red and blue jacket

02:42:22 12 and he had a dark skull cap.

02:42:24 13 Q. All right. Mr. Baldwin told you and Detective Hood that

02:42:30 14 the offenders were wearing skull caps, correct?

02:42:32 15 A. That is correct.

02:42:32 16 Q. Did Cleveland Ball ever tell you and Detective Hood that

02:42:36 17 the offenders were wearing ski masks?

02:42:39 18 A. No.

02:42:40 19 Q. According to Mr. Ball, there were four offenders?

02:42:45 20 A. Yes, sir.

02:42:45 21 Q. According to Mr. Ball, two were in the car and two got

02:42:56 22 into the car?

02:42:56 23 A. Correct.

02:42:56 24 Q. Did Mr. Ball describe what type of car it was?

02:43:02 25 A. Mr. Ball said it was a two-door blue 79 Cadillac coupe

02:43:09 1 DeVille.

02:43:10 2 Q. It was a two-door coupe DeVille?

02:43:13 3 A. Correct.

02:43:13 4 Q. If I could go back to the scene report, page 60-2,  
02:43:18 5 Defendant's Exhibit 60-2.

02:43:20 6 BY MR. MICHALIK:

02:43:25 7 Q. Let's go back to the section that says wanted. Could you  
02:43:33 8 please read what your report says as to the description of the  
02:43:37 9 wanted offenders.

02:43:38 10 A. Wanted, four offenders.

02:43:41 11 Number one, a male black, 21 to 25 years of age,  
02:43:46 12 five-foot ten to six feet, medium build, last seen wearing a  
02:43:51 13 blue jogging suit and a red skull cap.

02:43:54 14 Number two, male black, 20 to 24 years of age,  
02:43:57 15 five-foot seven to foot foot nine, medium build, last seen  
02:44:04 16 wearing a Clark colored jacket and a dark colored skull cap.  
02:44:08 17 Hair worn long and had an earring.

02:44:10 18 Three and four subjects unknown. Both stayed in the  
02:44:13 19 vehicle described below.

02:44:14 20 Q. The information as to offenders number 1 and No. 2,  
02:44:18 21 they're unknown, correct?

02:44:19 22 A. Correct.

02:44:19 23 Q. But these descriptions are based on the information that  
02:44:22 24 was provided to you and Detective VanBerschot by witnesses  
02:44:27 25 Eric Benson and Cleveland Ball?

02:44:28 1 A. Correct.

02:44:29 2 Q. And all of that information is reflected here in the  
02:44:31 3 supplementary report?

02:44:32 4 A. It is.

02:44:33 5 Q. If we could go to the next section of the supplementary  
02:44:43 6 report, wanted vehicle. Why is that section included in a  
02:44:46 7 scene report?

02:44:47 8 A. Well, this vehicle was seen, the offenders were seen  
02:44:52 9 entering the vehicle and the individuals involved in the  
02:44:57 10 murder along with their compatriots were driving in this 1979  
02:45:06 11 Cadillac coupe DeVille, medium blue in color, license number  
02:45:11 12 was unknown.

02:45:11 13 Q. And what was the source of that information?

02:45:13 14 A. That was the information that we got from the people we  
02:45:16 15 interviewed.

02:45:17 16 Q. Including Cleveland Ball?

02:45:18 17 A. Cleveland Ball, correct.

02:45:19 18 Q. Incidentally, let me ask you this, sir, when you were  
02:45:25 19 preparing your supplementary report in the evening of April  
02:45:30 20 28, 1984, did you have available to you your notes, GPRs, and  
02:45:35 21 the GPRs from Detective VanBerschot?

02:45:37 22 A. Everybody at the scene submitted their notes and we  
02:45:42 23 compiled the report based upon those.

02:45:44 24 Q. If we could look at some of the other sections in this  
02:45:54 25 supplementary report. In particular, we see the date and time

02:45:57 1 here at the bottom of page 2.

02:46:02 2 A. Yes, sir, that was Saturday April 28th at approximately  
02:46:05 3 10:17 hours.

02:46:06 4 Q. And that reflects the time of the shooting, correct?

02:46:08 5 A. Yes, it does.

02:46:09 6 Q. All right. If we could go to page 3 of this report. At  
02:46:17 7 the very top, weather and lighting, what did you report were  
02:46:21 8 the weather and lighting conditions at the time of the  
02:46:23 9 shooting?

02:46:23 10 A. That it was warm, high in the '60s, and sunny, and it was  
02:46:28 11 good natural lighting.

02:46:32 12 Q. Going down a little bit, I don't want to spend time on all  
02:46:35 13 of these sections, but I do want to ask you about the next one  
02:46:39 14 toward the bottom of the page. It says personnel assigned.  
02:46:42 15 Do you see that, sir?

02:46:43 16 A. Yes.

02:46:43 17 Q. And I think it continues onto the next page. For the  
02:46:49 18 record, this is Defendant's Exhibit 60-3 and 4.

02:46:56 19 Whose names are included in the section designated  
02:47:02 20 personnel assigned?

02:47:03 21 A. Anyone from the Chicago Police Department assigned to the  
02:47:07 22 scene or happened on the scene, we got their information.

02:47:10 23 Q. All right. In looking at the list of personnel at the  
02:47:13 24 scene, does it indicate anywhere that sergeant -- then  
02:47:18 25 Sergeant Murphy was at the scene during the investigation on

02:47:22 1 April 28, 1984?

02:47:23 2 A. No, sir.

02:47:24 3 Q. Does it indicate whether or not Detective O'Callaghan was

02:47:28 4 one of the detectives who was assigned to the scene on April

02:47:31 5 28, 1984?

02:47:33 6 A. No, sir.

02:47:33 7 Q. Okay. Continuing on looking at page 4 of Exhibit 60, it

02:47:44 8 indicates witnesses and there are two that are listed there.

02:47:47 9 Do you see that?

02:47:47 10 A. Yes, I do.

02:47:48 11 Q. Okay. And they are Eric Benson and Cleveland Ball?

02:47:51 12 A. Correct.

02:47:51 13 Q. You've told us about them already. Just a couple of quick

02:47:54 14 questions.

02:47:55 15 Under I can Benson in parentheses it says I-oral, do

02:48:00 16 you see that there?

02:48:01 17 A. Yes, I do.

02:48:02 18 Q. What did you mean by that?

02:48:03 19 A. Eye meaning eyewitness as opposed to a circumstantial

02:48:08 20 witness and oral, he gave an oral statement.

02:48:10 21 Q. You said as opposed to a circumstantial witness, is that

02:48:13 22 what you got designated for Cleveland Ball where you have

02:48:16 23 parentheses circumstance, c-i-r-c-oral?

02:48:20 24 A. Correct.

02:48:20 25 Q. What does that mean, circumstantial witness?

02:48:23 1 A. Circumstantial witness would be someone that would perhaps  
02:48:27 2 hear a gun so the and see somebody running as in this case it  
02:48:30 3 was with Cleveland Ball.

02:48:31 4 Q. Thank you.

02:48:32 5 Now, the next section it is labeled interview. Do  
02:48:38 6 you see that there?

02:48:38 7 A. Yes.

02:48:38 8 Q. All right. What is included in that section of a scene  
02:48:42 9 report?

02:48:42 10 A. Individuals that gave us information or told us what they  
02:48:48 11 had -- what they saw and were willing to be identified.

02:48:51 12 Q. And if we look at page 4 going onto page 5 of the scene  
02:48:57 13 report, you have seven individuals listed there?

02:48:59 14 A. Correct.

02:48:59 15 Q. Were all of those individuals persons that were  
02:49:03 16 interviewed at the scene?

02:49:05 17 A. No, they were not.

02:49:05 18 Q. All right. How many were from the scene?

02:49:07 19 A. The first five and the last two were interviewed  
02:49:12 20 elsewhere.

02:49:12 21 Q. All right. Is there any indication anywhere on this scene  
02:49:16 22 report that any of the detectives talked to a young man named  
02:49:20 23 Cornell Jefferson?

02:49:21 24 A. No, sir.

02:49:21 25 Q. All right. If we could go to page 60-7 please.

02:49:33 1 About halfway down in the report, there's a paragraph  
02:49:45 2 here that says the reporting detectives, by the way, is that  
02:49:49 3 you and Detective Hood?  
02:49:50 4 A. Yes, it's referring to myself and my partner.  
02:49:52 5 Q. It says that you proceeded to the forensic institute. Do  
02:49:56 6 you see that there?  
02:49:57 7 A. Yes, sir.  
02:49:58 8 Q. What is the forensic institute?  
02:49:59 9 A. It's also known as the morgue and that's where anyone who  
02:50:05 10 is murdered, suspicious deaths, things like that, people die  
02:50:11 11 in a hospital for an unknown reason, they would be taken to  
02:50:15 12 the forensic institute.  
02:50:15 13 Q. All right. According to the report here, it says that you  
02:50:19 14 and Detective Hood did a cursory examination of the victims?  
02:50:24 15 A. That's correct.  
02:50:25 16 Q. What does that mean?  
02:50:26 17 A. This was prior to the formal autopsy that was going to be  
02:50:31 18 held.  
02:50:31 19 Q. All right. Then the next line indicates there would be a  
02:50:36 20 more thorough examination at the time of the autopsy?  
02:50:38 21 A. Correct.  
02:50:38 22 Q. Did you attend the autopsy?  
02:50:40 23 A. No, we did not. Area one was at the time was one of two  
02:50:45 24 areas in the city that had detectives actually assigned to the  
02:50:49 25 morgue or the forensic institute because of the number of



02:50:53 1 bodies that were being handled every week.

02:50:59 2 Q. If we could go back to page 6 of the report, please.

02:51:03 3 Let me ask you something else about the interview  
02:51:08 4 with Cleveland Ball. You can highlight that section.

02:51:12 5 You told us a little bit about Cleveland Ball and the  
02:51:16 6 description of the offenders, and the car, but he provided  
02:51:20 7 some additional information as well, correct?

02:51:22 8 A. Yes, he did.

02:51:23 9 Q. And he provided some information about the Goon Squad?

02:51:29 10 A. Yes, sir.

02:51:29 11 Q. What did he tell you about the Goon Squad?

02:51:31 12 A. That the day before, an incident involved this young man  
02:51:37 13 by the name of Delbert Edwards from another building in the  
02:51:40 14 area there, 730 East 39th Street, was involved with some Goon  
02:51:46 15 Squad members. his younger brother actually got into some  
02:51:51 16 squabble with these Goon Squad members and that Delbert  
02:51:57 17 Edwards came out and fired a gun at those gang members.

02:52:00 18 Q. Before that conversation with Cleveland Ball, had you ever  
02:52:03 19 heard of the Goon Squad before?

02:52:04 20 A. I had not, no.

02:52:05 21 Q. Had you known Delbert Edwards before hearing that name  
02:52:09 22 from Cleveland Ball?

02:52:10 23 A. I did not, no.

02:52:12 24 Q. All right. This appears to involve an incident that  
02:52:16 25 occurred the day before the shooting which would have been

02:52:19 1 April 27th?

02:52:20 2 A. Correct.

02:52:20 3 Q. Why did you include this information in your report?

02:52:23 4 A. Well, it was a possible lead.

02:52:27 5 Q. Did Cleveland Ball provide you with any further

02:52:31 6 information about the getaway car?

02:52:33 7 A. Just the fact that it went north on Langley which is runs

02:52:40 8 adjacent to the murder scene and away from the murder scene

02:52:45 9 itself.

02:52:45 10 Q. All right. And the murder scene was on 39th?

02:52:49 11 A. Correct.

02:52:50 12 Q. All right. If we could go back to page 7 of the scene

02:53:01 13 report, please.

02:53:02 14 All right. I am going to ask you about one of the

02:53:04 15 witnesses that you previously listed or that you had

02:53:06 16 interviewed, I had you had say. An individual named Louis

02:53:09 17 Carter?

02:53:10 18 A. Yes, sir.

02:53:10 19 Q. Did you and Detective Hood investigate someone by the name

02:53:14 20 of Louis Carter as part of the investigation on April 28,

02:53:18 21 1984?

02:53:18 22 A. We did.

02:53:19 23 Q. All right. This is a man named Louis Carter, correct, not

02:53:22 24 George Carter?

02:53:22 25 A. No, this is Louis J. Carter, sir.

02:53:25 1 Q. All right. How did Louis Carter come to your attention?

02:53:27 2 A. Louis Carter was driving his father's vehicle which  
02:53:31 3 happened to be a blue coupe DeVille Cadillac which is similar  
02:53:40 4 as the wanted vehicle.

02:53:43 5 Q. That was the wanted vehicle you had listed earlier in the  
02:53:47 6 report, correct?

02:53:48 7 A. Correct.

02:53:48 8 Q. Did you talk to Louis Carter?

02:53:50 9 A. Yes, we did.

02:53:51 10 Q. Where did you talk to him?

02:53:53 11 A. We talked to him in the gang crimes unit at 51st and  
02:53:58 12 Wentworth, it's just downstairs of our headquarters.

02:54:01 13 Q. All right. Had he been stopped and brought in?

02:54:03 14 A. Yes, he was brought in by members of the gang crimes unit.

02:54:08 15 Q. Who was present when you talked to Louis Carter?

02:54:10 16 A. Me and my partner.

02:54:12 17 Q. All right. What, if anything, did Louis Carter tell you?

02:54:14 18 A. He told us that he was at his sister's house, which is at  
02:54:18 19 625 east 38th place, then he went and dropped some friends off  
02:54:24 20 at 40th and federal, and from there he went to pick up his  
02:54:27 21 mother at 652 west Garfield which Garfield was 5500 south, 652  
02:54:36 22 would be about union, and they brought his mother back to his  
02:54:40 23 sister's house.

02:54:41 24 Q. So in other words, Louis Carter provided you with an alibi  
02:54:45 25 for his whereabouts at the time of the shooting on April 28,

02:54:48 1 1984?

02:54:49 2 A. Correct.

02:54:50 3 Q. Can you explain to the ladies and gentlemen of the jury  
02:54:53 4 how you as a detective would go about checking someone's alibi  
02:54:57 5 in the 1984 time period?

02:54:58 6 A. One thing we would always do would be first of all  
02:55:02 7 interviewing the people individually, not collectively. It  
02:55:06 8 would be one-on-one, and we would then ask them open-ended  
02:55:13 9 questions and have them explain to us exactly what they did,  
02:55:17 10 for example, in this case, we would say, you know, what did  
02:55:20 11 you do today, and from the time they got up until the time  
02:55:23 12 that the police had them, which is another point too because  
02:55:28 13 back in 1984, there was though such thing as instant  
02:55:31 14 communication, nobody could whip out a cell phone or text  
02:55:36 15 somebody or instant message somebody. If somebody was in  
02:55:41 16 police custody, they had no communication with anyone else  
02:55:45 17 other than the police.

02:55:45 18 Q. So if I understand it, you would ask open-ended questions  
02:55:50 19 to have the alibi witness provide independent information  
02:55:53 20 corroborating what it was that the suspect was telling you?

02:55:56 21 A. Correct. And then we would go and talk to the individuals  
02:56:00 22 and in this case, his mother and talk to her individually as  
02:56:06 23 well, and she would --

02:56:07 24 Q. Let me ask you about that in a minute?

02:56:10 25 A. Sure.

02:56:10 1 Q. I just have a question about the general process. When  
02:56:13 2 you would interview the alibi witnesses, would you do so by  
02:56:16 3 person or by telephone?

02:56:18 4 A. Always in person especially in homicide cases.

02:56:21 5 Q. Now, could you tell us what you did to verify Louis  
02:56:24 6 Carter's alibi?

02:56:25 7 A. We spoke with Louis Carter's mother and she gave us the  
02:56:28 8 same information that Louis did.

02:56:30 9 Q. So you were able to verify his alibi?

02:56:33 10 A. We were.

02:56:34 11 Q. All right. If we could look at the bottom of page 7 of  
02:56:40 12 this supp report and at the top of the next page, page 8.

02:56:44 13 There is a paragraph here regarding an individual named  
02:56:47 14 Delbert Edwards. Do you see that there?

02:56:48 15 A. Yes, I do.

02:56:49 16 Q. He was the individual that was mentioned by Cleveland  
02:56:53 17 Ball?

02:56:53 18 A. Yes.

02:56:54 19 Q. And Delbert and his younger brother got into some sort of  
02:56:59 20 scrap with the Goon Squad?

02:56:59 21 A. Correct.

02:57:00 22 Q. What, if anything, was done to look for Delbert Edwards by  
02:57:03 23 you and your partner?

02:57:03 24 A. Well, detectives, other detective went and left a business  
02:57:08 25 card at Delbert Edwards's apartment.

02:57:14 1 Q. Did you eventually speak to Delbert Edwards?  
02:57:15 2 A. Yes, we did.  
02:57:17 3 Q. When did that take place?  
02:57:18 4 A. That took place at area one, his father, Delbert Edwards's  
02:57:24 5 brought him into the area.  
02:57:25 6 Q. When did that take place?  
02:57:26 7 A. That took place sometime after we got back and after we  
02:57:32 8 spoke to Mr. Carter.  
02:57:33 9 Q. You talked to Delbert Edwards?  
02:57:34 10 A. Yes, we did.  
02:57:35 11 Q. Who was present at the time?  
02:57:36 12 A. My partner and myself.  
02:57:38 13 Q. What did Delbert tell you?  
02:57:40 14 A. He said that because of the trouble that was happening  
02:57:45 15 with the day before which we checked out and it turned out  
02:57:49 16 that actually Delbert Edwards was the one that was shot at, it  
02:57:52 17 wasn't the other way around, and his father brought over to  
02:57:59 18 his aunt's house at 51st and Iow, which was actually not too  
02:58:04 19 far from our station.  
02:58:05 20 Q. All right. So he also provided an alibi for his  
02:58:09 21 whereabouts at the time of the shooting?  
02:58:10 22 A. Yes, he said he didn't get up until 11:30.  
02:58:13 23 Q. What, if anything, did you do to check out Delbert  
02:58:15 24 Edwards's alibi?  
02:58:16 25 A. We went over and spoke to his aunt at 51st and Iocal.

02:58:21 1 Q. Did his alibi check out?

02:58:23 2 A. It did.

02:58:24 3 Q. If I could now see Defendant's Exhibit 57, pages 11 and  
02:58:28 4 12.

02:58:40 5 We are now looking at what was marked as Defendant's  
02:59:05 6 Exhibit 57, pages 11 and 12. Do you recognize what that is?

02:59:07 7 A. Yes, I do.

02:59:08 8 Q. What is it?

02:59:09 9 A. It's a supplementary report regarding the Hickman Smith  
02:59:16 10 double homicide.

02:59:17 11 Q. And does this reflect an interview conducted by you and  
02:59:20 12 Detective Hood on April 30, 1984?

02:59:22 13 A. That's correct.

02:59:22 14 Q. Who was interviewed at that time?

02:59:24 15 A. Carlos Willis.

02:59:25 16 Q. Where did you interview Mr. Willis?

02:59:28 17 A. I believe it was at his house.

02:59:32 18 Q. Okay. What, if anything, did Carlos Willis tell you  
02:59:36 19 regarding the Smith/Hickman incident?

02:59:37 20 A. Well, that he was across the street when he saw what  
02:59:47 21 happened regarding the shooting.

02:59:47 22 Q. Okay. He saw the shooting?

02:59:49 23 A. Correct.

02:59:50 24 Q. Did he tell you anything else about what he saw after the  
02:59:54 25 shooting?



02:59:54 1 A. That the individuals ran back through the breezeway as  
03:00:00 2 they call it and ran away from the scene. The door slammed  
03:00:12 3 and squeal of the tires as the car peeled away from the car.  
03:00:16 4 Q. Mr. Willis told you that he saw the two offenders fleeing  
03:00:19 5 through the breezeway, correct?  
03:00:20 6 A. Correct.  
03:00:20 7 Q. Did he ever tell you at any time that either of the  
03:00:23 8 offenders was wearing a ski mask?  
03:00:26 9 A. He did not, no.  
03:00:27 10 Q. If he did tell you that, would that have been reflected in  
03:00:31 11 this supplementary report?  
03:00:32 12 A. Absolutely.  
03:00:33 13 Q. You indicated that he heard the car door slam and the  
03:00:36 14 squeal of tires?  
03:00:36 15 A. Yes, sir.  
03:00:37 16 Q. Did he ever see the vehicle that he heard?  
03:00:41 17 A. No, he did not.  
03:00:42 18 Q. The car never came back toward him on 39th Street?  
03:00:46 19 A. No, sir, it did not.  
03:00:48 20 Q. Now, at this time, you had been investigating the  
03:00:53 21 Smith/Hickman murder for three or four days. Did you have any  
03:00:57 22 specific individuals in mind at that time as suspects in these  
03:01:01 23 homicides?  
03:01:02 24 A. No named individuals, no.  
03:01:04 25 Q. All right. If I could see Plaintiff's Exhibit 1, page



03:01:10 1 104. Looking at what was Plaintiff's Exhibit 1-104, it's a to  
03:01:32 2 from memo that is reportedly put in evidence. Do you see that  
03:01:37 3 there?

03:01:37 4 A. Yes, I do.

03:01:38 5 Q. Do you recall seeing this memo in 1984?

03:01:40 6 A. To tell you the truth, no, I don't recall it, this  
03:01:43 7 particular memo.

03:01:44 8 Q. All right. According to this memo, there's some  
03:01:46 9 information provided by James Langston regarding the Baldwin  
03:01:51 10 brothers?

03:01:51 11 A. Correct.

03:01:51 12 Q. Did you and Detective Hood investigate any of this  
03:01:53 13 information about the Baldwin brothers in the -- the Baldwin  
03:01:58 14 brother in the passenger seat?

03:01:59 15 A. We did not.

03:02:00 16 Q. Why not?

03:02:00 17 A. Because Detectives Minogue and Bogdalek were following up  
03:02:06 18 on that angle.

03:02:07 19 Q. Okay. According to the information reflected this this  
03:02:10 20 memo, James Langston said that he saw the car go south on  
03:02:13 21 Langley, then west on 39th. Do you see that there?

03:02:17 22 A. I do.

03:02:17 23 Q. Was that the same information that you had obtained from  
03:02:21 24 witnesses that you talked to?

03:02:22 25 A. No, that's contrary to what we were told by two other

03:02:25 1 people.

03:02:25 2 Q. And you were told what by two other people?

03:02:32 3 A. That they never saw the car come north on 39th Street, so

03:02:35 4 it went north on Langley away from the murder scene.

03:02:35 5 Q. Would that be Cleveland Ball and Carlos Willis?

03:02:37 6 A. Correct.

03:02:38 7 Q. All right. After the first week of May 1984, did you have

03:02:42 8 any further involvement in the investigation of the

03:02:47 9 Smith/Hickman murders?

03:02:47 10 A. No, sir.

03:02:48 11 Q. Why not?

03:02:50 12 A. Well, we ran down all the leads that we had and when the

03:02:55 13 case became cold, we just moved onto the other cases because

03:03:00 14 there was plenty of them to do.

03:03:01 15 Q. Okay. If I could see Plaintiff's Exhibit 21-7?

03:03:07 16 THE COURT: Are you changing topics here?

03:03:08 17 MR. MICHALIK: I am.

03:03:09 18 THE COURT: We are going to take our break here. We

03:03:11 19 will break for ten minutes and then resume. I will be right

03:03:15 20 back out.

03:03:53 21 (The jury leaves the courtroom.) .

03:03:53 22 THE COURT: Okay. Do we have something to discuss?

03:03:56 23 MR. KULWIN: Judge, I believe Mr. Kuhn is here.

03:03:58 24 THE COURT: Well, why don't you all talk to him and

03:04:01 25 figure out what the story is. (Short break.

03:15:11 1 THE COURT: Can somebody give me an update.

03:15:13 2 MR. LOEVY: The government, Mr. Kuhn, has given us a  
03:15:16 3 document that's single spaced and about 15 pages. Mr. Kuhn  
03:15:20 4 doesn't have personal knowledge, but he believes that  
03:15:22 5 Mr. Hogan believes that this is the document that was taken by  
03:15:26 6 the cooperators.

03:15:28 7 THE COURT: Okay.

03:15:30 8 MR. LOEVY: We haven't read it, obviously.

03:15:31 9 THE COURT: Yeah, of course.

03:15:32 10 MR. LOEVY: And we do oppose the introduction of this  
03:15:37 11 memo now.

03:15:37 12 THE COURT: That's really not the question on the  
03:15:39 13 table at this point.

03:15:40 14 MR. LOEVY: All right. Sorry, I guess I don't know  
03:15:43 15 what the question is.

03:15:44 16 THE COURT: The question on the table at this point  
03:15:46 17 had to do with the assertion of the deliberative process  
03:15:50 18 privilege.

03:15:50 19 MR. KULWIN: There's two issues on the table. One is  
03:15:52 20 the assertion of deliberative process. What Mr. Kuhn just  
03:15:56 21 advised us is that the government will waive the deliberative  
03:15:59 22 process privilege to the extent that Mr. Hogan can talk about  
03:16:03 23 or the ultimate conclusion he derived from participating in  
03:16:09 24 discussions about whether or not --

03:16:09 25 THE COURT: That is way too cryptic for me to get.

03:16:13 1 No, I want to hear from the lawyers in my case. That's what I  
03:16:16 2 want to hear from.

03:16:17 3 MR. KULWIN: As I understand it, the government is  
03:16:18 4 saying that Mr. Hogan is free to discuss his participation in  
03:16:25 5 the discussions of the Rule 35 motion. Its purpose.

03:16:31 6 THE COURT: Now I understand. Thank you.

03:16:32 7 MR. KULWIN: Things of that nature. What they're  
03:16:34 8 saying, if I understand it correctly, what he can't say is and  
03:16:37 9 then Zack Farden said this or Gary Shapiro said that or  
03:16:41 10 whatever. He can't talk about that.

03:16:43 11 THE COURT: He can't talk about the discussions in  
03:16:45 12 other words.

03:16:45 13 MR. KULWIN: He can talk about his personal knowledge  
03:16:47 14 that he derived from it.

03:16:48 15 THE COURT: We will deal with that later.

03:16:51 16 MR. KULWIN: Number two, the other issue I believe  
03:16:53 17 with respect it this was.

03:16:54 18 THE COURT: This document?

03:16:55 19 MR. KULWIN: Yes. I was going to elicit from him,  
03:16:57 20 what prompted this was.

03:16:58 21 THE COURT: From Mr. Hogan?

03:17:00 22 MR. KULWIN: Yes, Mr. Hogan. I apologize, your  
03:17:02 23 Honor. From Mr. Hogan, you know, what was taken because  
03:17:05 24 there's been all this discussion about a pro memo, wags it the  
03:17:10 25 pros memo, he is going to say, no, what was it? X, Y, and Z.

03:17:16 1 What was the date of that document? X, Y, and Z. They  
03:17:19 2 oppose.

03:17:20 3 THE COURT: I'll hear from Mr. Loevy why he opposes  
03:17:22 4 it.

03:17:23 5 MR. KULWIN: That's what they said this morning.

03:17:24 6 THE COURT: Okay. So are you in a position to  
03:17:27 7 address this now, Mr. Loevy?

03:17:28 8 MR. LOEVY: What I will address, your Honor, is on  
03:17:30 9 November 18th, during the trial, we got a letter from the U.S.  
03:17:34 10 Attorney's Office from Mr. Kuhn on behalf of the United States  
03:17:36 11 saying it has been further determined that the production of  
03:17:39 12 any prosecution or other internal United States attorney's  
03:17:44 13 office memos obtained by Derrick Kees, Trammell Davis, Earl  
03:17:48 14 Hawkins, Jackie Clay, Eugene Hunter will not be authorized.  
03:17:51 15 Prosecution memos --

03:17:52 16 THE COURT: You're reading from something I take it.

03:17:54 17 MR. LOEVY: Yeah.

03:17:54 18 THE COURT: Thank you, Mr. Art.

03:18:00 19 MR. LOEVY: In other words, we have now called every  
03:18:02 20 witness that we could have cross-examined and the guy that  
03:18:05 21 states asserted this privilege.

03:18:06 22 THE WITNESS: All the witnesses are now gone. We  
03:18:09 23 can't corroborate from this this is what they saw, what they  
03:18:13 24 didn't saw. We can't ask them questions about it. The United  
03:18:17 25 States can't waive the privilege right before the examination

03:18:20 1 of Mr. Hogan because the first four examinations --

03:18:23 2 THE COURT: We will deal with this later. Assuming  
03:18:25 3 Mr. Hogan hits the stand.

03:18:27 4 MR. KULWIN: I don't believe he will.

03:18:28 5 THE COURT: If he does, you have to avoid this topic.  
03:18:31 6 I am going to get the jury. We will talk at the end of the  
03:18:34 7 day about how and when.

03:18:38 8 MR. KULWIN: Thank you.

03:19:54 9 (The jury enters the courtroom.)

03:19:54 10 THE COURT: Okay. Everybody can have a seat.  
03:20:01 11 Mr. Michalik, you can go ahead.

03:20:02 12 MR. MICHALIK: Thank you.

03:20:03 13 BY MR. MICHALIK:

03:20:04 14 Q. If I could have Plaintiff's Exhibit 21, page 7.

03:20:11 15 Mr. Evans, we previously talked about this document.

03:20:21 16 This was the GPR that was prepared by Detective VanBerschot?

03:20:27 17 A. Correct.

03:20:28 18 Q. And this is one of the pages you had that you relied on in  
03:20:36 19 preparing your supplementary report?

03:20:37 20 A. That is correct.

03:20:38 21 Q. If we could go down to the bottom half of this memo. Do  
03:20:46 22 you see here where there is a reference in quotes to Goon  
03:20:51 23 Squad?

03:20:51 24 A. Yes, sir.

03:20:51 25 Q. And then the line below that refers to Fuddy's friends?

03:20:58 1 A. Correct.

03:20:58 2 Q. Okay. And then there is a line here about the goons.

03:21:03 3 Could you read that, please?

03:21:04 4 A. Goons trying to take over the league, Black Gangster Goon

03:21:11 5 Squad also fighting El Rukns.

03:21:11 6 Q. All right. So as of April 28, 1984, the police at least

03:21:17 7 had some information that Fuddy's gang was in a dispute with

03:21:21 8 the El Rukns?

03:21:22 9 A. Correct.

03:21:22 10 Q. Okay. Everybody knows what Plaintiff's Exhibit No. 1 is

03:21:47 11 by this time.

03:21:48 12 In April of 1984, how long had you been working as a

03:21:52 13 homicide detective in area one?

03:21:54 14 A. Approximately two years.

03:21:56 15 Q. All right. During the course of this work in area one as

03:21:59 16 a homicide detective, did you become familiar with the El Rukn

03:22:02 17 street gang?

03:22:03 18 A. Yes, sir.

03:22:04 19 Q. All right. As of April 28, 1984, were you familiar with

03:22:08 20 an individual named Earl Hawkins?

03:22:09 21 A. Yes, sir.

03:22:11 22 Q. What was your familiarity with Earl Hawkins at that time?

03:22:14 23 A. Earl Hawkins was a member of the upper echelon of the El

03:22:20 24 Rukns and he was thought to be involved in a number of

03:22:23 25 homicides.



03:22:23 1 Q. All right. If I could have Plaintiff's Exhibit 1-1 and  
03:22:29 2 1-2 side by side.

03:22:33 3 MR. MICHALIK: If I may approach, your Honor?

03:22:35 4 THE COURT: Sure.

03:22:36 5 BY MR. MICHALIK:

03:22:38 6 Q. I'm going to show you a photograph that corresponds with  
03:22:40 7 plaintiff's exhibit 1-1. I'd ask you to take a look at that.

03:22:47 8 A. That's a photo of Earl Hawkins.

03:22:49 9 Q. All right. If you could flip it over, there's some  
03:22:51 10 writing on the back.

03:22:53 11 A. The writing is in my script on Earl Hawkins is what it  
03:22:57 12 says, Hawkins, Earl.

03:22:59 13 Q. Thank you.

03:23:00 14 If I could see plaintiff's 1-125 and 126. Do you  
03:23:20 15 recognize what this document is, sir?

03:23:21 16 A. This is commonly referred to as a rap sheet, but it's a  
03:23:26 17 criminal sheet on Mr. Earl Hawkins.

03:23:28 18 Q. Okay. Now, during the course of your investigation of the  
03:23:32 19 Smith/Hickman homicides in April and early May of 1984, did  
03:23:36 20 any witness or person that you interviewed suggest that Earl  
03:23:40 21 Hawkins was involved in the murders?

03:23:42 22 A. No, sir.

03:23:42 23 Q. Do you recall ever showing anyone this photograph of Earl  
03:23:48 24 Hawkins?

03:23:48 25 A. No, sir, I never did.



03:23:49 1 Q. Did you develop -- did you ever develop any information in  
03:23:53 2 April and early May 1984 that Earl Hawkins was involved in the  
03:23:57 3 Smith/Hickman shootings?

03:23:58 4 A. No, sir.

03:23:58 5 Q. As of April 8, 1984, were you familiar with an individual  
03:24:08 6 named William Doyle?

03:24:10 7 A. Yes, sir.

03:24:11 8 Q. Was that due to your work as apparently area one homicide  
03:24:14 9 detective?

03:24:14 10 A. Y-yes, it was.

03:24:15 11 Q. What was your familiarity with William Doyle?

03:24:18 12 A. That he was also a high ranking member of the El Rukns and  
03:24:20 13 he was also thought to be involved in a number of homicides.

03:24:24 14 Q. If I could have plaintiff's exhibit 1-41 and 42 side by  
03:24:28 15 side.

03:24:29 16

03:24:30 17 MR. MICHALIK: If I may approach.

03:24:31 18 THE COURT: Okay.

03:24:32 19 BY MR. MICHALIK:

03:24:35 20 Q. Mr. Evans, do you recognize this photograph which  
03:24:37 21 corresponds to the Plaintiff's Exhibits that are on the  
03:24:40 22 screen?

03:24:41 23 A. Yes, it's the photograph, the Chicago Police Department  
03:24:45 24 photograph of Mr. William Doyle and that's my script on the  
03:24:49 25 back, Doyle, William.

03:24:50 1 Q. Thank you.

03:24:53 2 If I could see Plaintiff's Exhibit 1-127 and 128,  
03:25:05 3 please.

03:25:16 4 Sir, do you see this document?

03:25:17 5 A. Yes, I do.

03:25:18 6 Q. What is it?

03:25:19 7 A. It's a criminal history of a Mr. William Doyle.

03:25:22 8 Q. All right. And it looks like actually page 128 is the  
03:25:29 9 first page of this rap sheet?

03:25:30 10 A. Correct.

03:25:30 11 Q. And 127 is the second page?

03:25:33 12 A. Yes, it is.

03:25:34 13 Q. There's some writing at the bottom of the second page  
03:25:37 14 which is Plaintiff's Exhibit 1-127. Do you see that there,  
03:25:40 15 sir?

03:25:40 16 A. I do.

03:25:41 17 Q. Do you know whose writing that is?

03:25:43 18 A. That's my script.

03:25:44 19 Q. If I could see Plaintiff's Exhibit 1-121.

03:25:52 20 All right. If we look at the bottom here -- well,  
03:26:06 21 can you tell us what these are that reelected in this exhibit?

03:26:10 22 A. There's actually two different documents. The first top  
03:26:12 23 one is an arrest card typically used to keep a file on  
03:26:19 24 individuals who are arrested in the Chicago Police Department  
03:26:23 25 through this manner.

03:26:23 1 Q. If we could see the bottom one, please. Is this also an  
03:26:28 2 arrest card for someone?  
03:26:30 3 A. It is for the gang crimes unit. They used it to keep  
03:26:34 4 their individual.  
03:26:34 5 Q. Who is the individual that's referenced in this card?  
03:26:36 6 A. William Doyle.  
03:26:38 7 Q. All right. Do you see here for nickname, there's  
03:26:41 8 something written in there. Do you see that, sir?  
03:26:43 9 A. Yes, I do.  
03:26:44 10 Q. All right. And that says sundown?  
03:26:48 11 A. Yes, it does.  
03:26:48 12 Q. You told us before that you were familiar based on your  
03:26:51 13 work as an area one homicide detective with William Doyle,  
03:26:54 14 correct?  
03:26:55 15 A. Correct.  
03:26:55 16 Q. Were you familiar with his nickname of sundown?  
03:26:57 17 A. I was not, no.  
03:26:58 18 Q. During the course of your investigation of the  
03:27:03 19 Smith/Hickman homicides in April and early May of 1984, did  
03:27:08 20 you develop any lead or information that William Doyle was  
03:27:11 21 involved in the Smith/Hickman murders?  
03:27:12 22 A. No, sir.  
03:27:12 23 Q. Do you recall ever showing this photograph of William  
03:27:18 24 Doyle to any witness?  
03:27:19 25 A. No, sir, we did not.

03:27:20 1 Q. Is there any reason why you wouldn't show a photograph of  
03:27:26 2 William Doyle or Earl Hawkins to any other witnesses that you  
03:27:30 3 were talking to?

03:27:31 4 A. We had no foundation to do so. They were not named and if  
03:27:37 5 you were to show just an individual photo like that, you would  
03:27:41 6 taint a future identification.

03:27:42 7 Q. So you would not show a photograph to a witness unless he  
03:27:45 8 first brought up the name of a suspect?

03:27:47 9 A. That is correct, and at that time, if I would show it, I  
03:27:53 10 would show it in a photo array, not just an individual photo,  
03:27:56 11 I would show photos of like looking individuals along with the  
03:28:00 12 suspect.

03:28:00 13 Q. Thank you.

03:28:01 14 Just a few more questions, sir.

03:28:05 15 During your examination of the Smith/Hickman murders  
03:28:07 16 in late April and early May of 1984, did the name of Anthony  
03:28:12 17 Sumner ever come up?

03:28:12 18 A. No, sir.

03:28:13 19 Q. Did any witness or anyone tell you that Anthony Sumner was  
03:28:16 20 involved in the Smith/Hickman murders?

03:28:18 21 A. No, sir.

03:28:19 22 Q. Did anyone ever suggest to you that someone with the  
03:28:22 23 nickname of sundown was involved in the Smith/Hickman  
03:28:26 24 homicides?

03:28:26 25 A. No, sir.

03:28:27 1 Q. Did you know Nathson Fields prior to April 28, 1984?

03:28:33 2 A. No, sir.

03:28:34 3 Q. Did you know of him?

03:28:35 4 A. No, sir.

03:28:36 5 Q. Did the name of Nathson Fields ever come up at any time

03:28:40 6 during your investigation of the Smith/Hickman murders in

03:28:42 7 April and May 1984?

03:28:44 8 A. No, sir.

03:28:45 9 Q. Did you ever prepare a report or note suggesting that Mr.

03:28:51 10 Fields was involved in the Smith/Hickman homicides?

03:28:53 11 A. No, sir.

03:28:53 12 Q. Did you ever prepare a note or report indicating that Mr.

03:28:57 13 Fields was not involved in the Smith/Hickman homicides?

03:29:00 14 A. No, sir.

03:29:05 15 MR. MICHALIK: If I can have a moment, your Honor?

03:29:08 16 THE COURT: Sure.

03:29:10 17 (Brief pause.)

03:29:20 18 MR. MICHALIK: No further questions.

03:29:20 19 THE COURT: Mr. Kulwin, do you have any questions?

03:29:22 20 MR. KULWIN: No.

03:29:22 21 THE COURT: Mr. Loevy.

03:29:23 22 MR. LOEVY: Thank you.

03:29:24 23 - - -

03:29:24 24 ROBERT EVANS, CROSS-EXAMINATION

03:29:24 25 BY MR. LOEVY:

03:29:27 1 Q. All right. Mr. Evans, you performed a canvass of the  
03:29:31 2 building, correct?  
03:29:31 3 A. A canvass of the area.  
03:29:34 4 Q. Showing you a copy of plaintiff's 194-43. Back on the  
03:29:39 5 ELMO then, your Honor?  
03:29:40 6 THE COURT: Yes. There you go.  
03:29:45 7 BY MR. LOEVY:  
03:29:45 8 Q. This is the way you do a canvass report, right?  
03:29:48 9 A. This is -- this is the report.  
03:29:53 10 Q. It's a GPR, right?  
03:29:55 11 A. Pardon me?  
03:29:56 12 Q. It's a GPR?  
03:29:57 13 A. It's a GPR, right.  
03:29:58 14 Q. Which you took notes on, right?  
03:30:00 15 A. Correct.  
03:30:00 16 Q. And if you talked to Martha Robinson, you wrote down her  
03:30:05 17 name and information and the fact that she heard two gunshots,  
03:30:08 18 correct?  
03:30:08 19 A. Correct.  
03:30:09 20 Q. And if you talked to Dorothy Benson, a female black, no  
03:30:09 21 phone, heard four shots, looked out the window, two boys  
03:30:12 22 lying, you wrote that down, right?  
03:30:13 23 A. I did.  
03:30:15 24 Q. That's how you were trained, right?  
03:30:16 25 A. Pardon me?

03:30:17 1 Q. That's how you were trained, that if you were a police  
03:30:20 2 officer interviewing people who had any information, you'd  
03:30:22 3 write it down, right?  
03:30:23 4 A. That depends.  
03:30:26 5 Q. All right. The kind of information we see on this report,  
03:30:29 6 were you trained to write that down, sir?  
03:30:30 7 A. The names and addresses, absolutely.  
03:30:33 8 Q. You did it for Minnie White here on page 48 here as well,  
03:30:37 9 the woman who called the police, right?  
03:30:39 10 A. No, that's not my handwriting.  
03:30:40 11 Q. I'm sorry. Hood was your partner?  
03:30:42 12 A. He was, yes.  
03:30:43 13 Q. All right. So that's his handwriting?  
03:30:44 14 A. It appears to be, yes.  
03:30:46 15 Q. All right. You said you searched for physical evidence,  
03:30:53 16 things -- the crime lab came out, correct?  
03:30:55 17 A. Correct.  
03:30:55 18 Q. There was no blood or footprint evidence or any other  
03:31:00 19 forensic evidence ever connecting Nate to this crime, correct?  
03:31:03 20 A. Not to my knowledge.  
03:31:04 21 Q. All right. You said you get your reports done by the end  
03:31:07 22 of the shift, is that what you said?  
03:31:09 23 A. No, sir. We do the report at the end of our investigation  
03:31:13 24 and it took us absolutely a lot longer than the regular shift.  
03:31:15 25 Q. All right. I thought you said you did it at the end of

03:31:19 1 your tour of duty?

03:31:19 2 A. Pardon me?

03:31:20 3 Q. I thought you said it at the end of do you remember of  
03:31:24 4 duty?

03:31:24 5 A. At the end, sir.

03:31:26 6 Q. Showing you plaintiff's 94, this is your April 28th  
03:31:30 7 report?

03:31:30 8 A. Correct.

03:31:30 9 Q. It has a Bates stamp of April 30th, right?

03:31:33 10 A. I don't know where that stamp came from.

03:31:36 11 Q. It does have an April 30th Bates stamp?

03:31:38 12 A. It does, yes.

03:31:39 13 Q. Is it the policy -- are you familiar with the policies and  
03:31:42 14 practices of the Chicago Police Department?

03:31:43 15 A. Some, yes, not all.

03:31:45 16 Q. All right. Back in the '80s, was it the policy of the  
03:31:48 17 police department that after you did a police report like this  
03:31:50 18 one, your Honor supposed to hold it until you were done  
03:31:53 19 investigating or you were supposed to submit it as it was  
03:31:56 20 created?

03:31:56 21 A. No, we submitted it immediately that day.

03:31:59 22 Q. All right. Then that's what I got confused on. I thought  
03:32:02 23 you said end of tour you submit it, right?

03:32:04 24 A. At the end of our tour, I mean, our tour isn't over until  
03:32:07 25 this investigation -- until we take it as far as we can.



03:32:10 1 Q. I probably got --

03:32:11 2 A. I'm sorry. Maybe I wasn't clear on that.

03:32:13 3 Q. I was using the fancy police work tour of duty. I think I  
03:32:18 4 screwed it up. I mean end of shift?

03:32:19 5 A. We went overtime. When sergeant binge /AOE signed it, it  
03:32:24 6 says 2150, that's 9:50 people. Our shift ended at 5:00

03:32:28 7 o'clock.

03:32:29 8 Q. The point is and the only point I was trying to make is  
03:32:32 9 when you have a police report, you get it submitted as soon as  
03:32:34 10 possible, right?

03:32:35 11 A. Absolutely.

03:32:35 12 Q. And if this information in the report had to change, you  
03:32:38 13 do a different report, right?

03:32:39 14 A. Yes.

03:32:39 15 Q. All right. Sorry about the tour of duty confusion.

03:32:43 16 Was this your uniform practice when you were a  
03:32:49 17 detective to make sure you submitted your reports promptly?

03:32:51 18 A. Absolutely.

03:32:52 19 Q. Have you ever heard of an official police report, the  
03:32:55 20 official original version with signatures going missing?

03:32:58 21 A. Official signatures?

03:33:03 22 Q. Yeah, a real original police report, have you ever heard of  
03:33:06 23 those going missing in your career?

03:33:08 24 A. No, I really haven't. No.

03:33:09 25 Q. How many years were you a police officer?

03:33:11 1 A. 37 years, three months and 20 days.

03:33:14 2 Q. Some people talk about their prison sentences like that,  
03:33:18 3 you know.

03:33:19 4 A. I am not talking about marriage now.

03:33:22 5 THE COURT: My strong advice to you is stop right  
03:33:24 6 there.

03:33:26 7 BY MR. LOEVY:

03:33:27 8 Q. You said the reports don't reflect anybody interviewing  
03:33:31 9 Cornell Jefferson, correct?

03:33:32 10 A. My report, no, I didn't.

03:33:34 11 Q. Of course, none of the reports from 84 reference Gerald  
03:33:37 12 Morris, correct?

03:33:38 13 A. Not that I know of, no, sir.

03:33:40 14 Q. And none of the reports from 84 reflect the participation  
03:33:43 15 by Richard Buckles, correct?

03:33:45 16 A. Not that I am aware of.

03:33:46 17 Q. The people you spoke to had the car going north on  
03:33:50 18 Langley, correct?

03:33:51 19 A. Yes, sir.

03:33:52 20 Q. So if we can get the map real fast, wherever the car was,  
03:34:00 21 it was on this north south street, right?

03:34:02 22 A. I believe that -- is that Langley, sir?

03:34:05 23 Q. Building, Pershing, Langley, north south?

03:34:09 24 A. Okay.

03:34:09 25 Q. Everybody you talked to had the car driving away from the

03:34:12 1 vacant lot, correct?

03:34:13 2 A. Correct, away from the murder scene.

03:34:16 3 Q. Away from the murder scene?

03:34:18 4 A. Yes, sir.

03:34:18 5 Q. All right. You were asked this question about the El

03:34:26 6 Rukns. Who was the source of this information here? Can you

03:34:29 7 tell from --

03:34:30 8 MR. KULWIN: Judge.

03:34:31 9 MR. LOEVY: This is plaintiff's 21.

03:34:33 10 MR. KULWIN: Can we have Mr. Loevy's handwriting

03:34:36 11 taken off.

03:34:36 12 THE COURT: Do you have another copy?

03:34:38 13 MR. LOEVY: I don't.

03:34:39 14 THE COURT: It's his handwriting. Everybody knows

03:34:41 15 it's his handwriting. Go ahead.

03:34:42 16 MR. LOEVY: Thank you.

03:34:43 17 BY MR. LOEVY:

03:34:44 18 Q. Can you tell from the note whose the source of this

03:34:47 19 information?

03:34:48 20 A. The source of the information for me was detective

03:34:51 21 VanBerschot.

03:34:52 22 Q. But who did he get it from?

03:34:53 23 A. I don't know, sir.

03:34:55 24 Q. I mean, shouldn't you be able to tell from the document

03:34:58 25 who is claiming it was El Rukns?

03:35:01 1 A. You can tell. I can't, sir.

03:35:02 2 Q. You have looked and tried, right?

03:35:03 3 A. I don't know who.

03:35:05 4 Q. You've looked and tried, right?

03:35:06 5 A. No, I didn't look and try. I got it from Detective

03:35:11 6 VanBerschot.

03:35:11 7 Q. Take a look and see if you can tell who the source of the

03:35:13 8 information is. All I know is you tried before trial?

03:35:19 9 A. No, I can't.

03:35:19 10 Q. Because you have looked at it, right?

03:35:21 11 A. Right.

03:35:21 12 Q. And you cannot make sense of where that information came

03:35:24 13 from, correct?

03:35:24 14 A. It came from Detective VanBerschot.

03:35:27 15 Q. All right. You were asked about Louis Carter and his

03:35:34 16 alibi, correct?

03:35:35 17 A. Yes, sir.

03:35:35 18 Q. And this is page 98 of Plaintiff's Exhibit 2, 58. Now,

03:35:44 19 you properly documented in a supp report that he had an alibi,

03:35:47 20 right?

03:35:47 21 A. Yes, sir.

03:35:48 22 Q. And then it got turned over to the criminal defendant,

03:35:50 23 correct?

03:35:50 24 A. Pardon me?

03:35:52 25 Q. If it's in an official -- it's supposed to go into an

03:35:56 1 official supp report is it's a matter for everybody to see and  
03:35:58 2 review, right?  
03:35:59 3 A. Okay.  
03:36:00 4 Q. That's the way you're supposed to do it, right?  
03:36:02 5 A. Okay.  
03:36:02 6 Q. You are not supposed to check out people's alibis in  
03:36:05 7 parallel files that don't go into the supp report, would you  
03:36:08 8 agree with that?  
03:36:08 9 A. Oh, correct.  
03:36:10 10 Q. What's that?  
03:36:11 11 A. Correct.  
03:36:11 12 Q. Okay. Correct.  
03:36:12 13 Now, we took a look at a supp report where Eric  
03:36:18 14 Benson gave a description, I believe a man had hair or an  
03:36:22 15 earring. Do you remember that supp report or the GPR you saw?  
03:36:25 16 A. Right.  
03:36:25 17 Q. Why did the GPR description not make it into Plaintiff's  
03:36:32 18 Exhibit 186, page 7 and 8 of your report?  
03:36:36 19 A. It didn't make it on that page, but it made in the page of  
03:36:43 20 the offenders.  
03:36:43 21 Q. You're talking about the composite description?  
03:36:46 22 A. Correct.  
03:36:46 23 Q. All right. At the beginning, your report has that list of  
03:36:52 24 people wanted for the murder, correct?  
03:36:53 25 A. Yes, sir.

03:36:54 1 Q. And that report does not attribute the information to Eric  
03:37:01 2 Benson, correct?

03:37:02 3 A. Not in that section, no, sir.

03:37:05 4 Q. So how would -- let's say Eric Benson came to trial and  
03:37:09 5 someone wanted to cross-examine him, wouldn't it have made  
03:37:13 6 sense to put Eric Benson's description in Eric Benson's  
03:37:18 7 description?

03:37:21 8 THE COURT: You mean in Eric Benson's section of the  
03:37:23 9 report?

03:37:24 10 MR. LOEVY: Exactly. Thank you, your Honor.

03:37:25 11 THE WITNESS: Eric Benson's description is in the  
03:37:28 12 report.

03:37:31 13 BY MR. LOEVY:

03:37:31 14 Q. All right. For the record, can we agree that Eric  
03:37:34 15 Benson's description is not in the section titled Eric Benson?

03:37:39 16 A. That's correct.

03:37:39 17 Q. The description is in a separate GPR, right?

03:37:42 18 A. Yes. It's also on the supplementary report.

03:37:47 19 Q. All right. Delbert Edwards, you said you checked out his  
03:37:51 20 alibi, right?

03:37:52 21 A. Correct.

03:37:52 22 Q. He was a victim of the shooting, right?

03:37:55 23 A. Correct.

03:37:57 24 Q. And that whole Edwards scenario had nothing to do with the  
03:38:00 25 El Rukns, correct?

03:38:01 1 A. As far as I know, yes.

03:38:02 2 Q. And you did not check out the other Edwards' brothers  
03:38:05 3 alibis, did you?

03:38:06 4 A. No, sir.

03:38:08 5 Q. All right. Showing you Plaintiff's Exhibit 1-69, did you  
03:38:16 6 know at the time that these other Edwards brothers were  
03:38:19 7 overheard plotting to kill Fuddy?

03:38:22 8 A. I did not, no.

03:38:23 9 Q. Is this the kind of information that's supposed to be in a  
03:38:26 10 supp report?

03:38:26 11 A. It could be.

03:38:28 12 Q. But it also could be in a parallel file that doesn't get  
03:38:32 13 in the supp reports?

03:38:33 14 A. I don't understand what you mean about parallel file.

03:38:35 15 Q. Well, you do presently understand that this note was found  
03:38:40 16 in a parallel file in 2011, right?

03:38:42 17 A. Correct.

03:38:44 18 Q. In fact, you were one of the people who had to answer the  
03:38:48 19 lawsuit about whether information was being withheld, right?

03:38:51 20 A. I was, yes.

03:38:52 21 Q. And you said no information was being withheld, right?

03:38:55 22 A. Not by me, no, sir.

03:38:56 23 Q. You now know that these notes were withheld, right?

03:38:59 24 A. From my understanding, they found this information.

03:39:01 25 Q. Okay. Then that's what I meant by a parallel file that

03:39:05 1 was not produced?

03:39:06 2 A. Okay.

03:39:06 3 Q. Did the rules and regulations of the police department  
03:39:09 4 permit detectives to create parallel files and maintain them  
03:39:12 5 and not produce the information like this?

03:39:14 6 A. No.

03:39:15 7 Q. All right. Cleveland Ball, you had a description here in  
03:39:25 8 the GPR of -- you attributed this description to Cleveland  
03:39:29 9 Ball as opposed to eye net at that Watts or --

03:39:33 10 A. I believe that's from Cleveland. See, I didn't prepare  
03:39:35 11 that, that was my partner Steven Hood.

03:39:37 12 Q. All right. So you don't know if this is --

03:39:39 13 A. I believe it is Cleveland Ball.

03:39:40 14 Q. You believe it is, but that's a guess, right?

03:39:43 15 A. You know at the time that we were doing this, he was  
03:39:45 16 sitting across the table from me when I was typing the report.  
03:39:48 17 I would have verified all the information that's in the report  
03:39:50 18 with my partner before I put it on paper.

03:39:53 19 Q. The only thing I'm asking you, sir, is it's not clear  
03:39:56 20 whose description that is. That's a guess, right?

03:39:58 21 A. I guess you could guess that, yes.

03:40:00 22 Q. Now, why didn't that description, jogging suit, skull cap,  
03:40:06 23 jacket, make it into the report when you summarized what  
03:40:10 24 Cleveland Ball saw?

03:40:11 25 A. The description, I think we just gone over this with the



03:40:15 1 other individual, that those descriptions go into the allotted  
03:40:21 2 section of the report.

03:40:21 3 Q. And that's the way the police department policies and  
03:40:24 4 practices works?

03:40:24 5 A. Back in 1984 it did, yes.

03:40:27 6 Q. Let's say Cleveland Ball came to court and for my  
03:40:31 7 hypothetical, I pick out him in a lineup, are you with me?

03:40:33 8 MR. KULWIN: Judge, I object to hypotheticals.

03:40:35 9 THE COURT: Overruled.

03:40:36 10 BY MR. LOEVY:

03:40:36 11 Q. Are you with me?

03:40:37 12 A. Go ahead.

03:40:37 13 Q. He comes to court and he says that was Nate Fields. Nate  
03:40:43 14 Fields wants to say, hold on a second, you just described a  
03:40:47 15 guy that's 23 and I'm 31.

03:40:49 16 A. I see it.

03:40:50 17 Q. Then Cleveland Ball could say based on this report, I  
03:40:52 18 didn't describe anybody. You can't attribute that composite  
03:40:56 19 description to me, right?

03:40:57 20 A. No, because we got the information from Cleveland Ball.

03:41:02 21 Q. All right. But it would really depend on Mr. Fields  
03:41:07 22 getting the notes also, right?

03:41:08 23 A. Well, the GPR that has Cleveland Ball's information on it  
03:41:13 24 is something that he got, I believe.

03:41:15 25 Q. And you'd like to hope in most cases it gets there, right?

03:41:19 1 A. Yeah, exactly.

03:41:19 2 Q. But did the policy require you to put it into the supp  
03:41:22 3 report and attribute it to the person?

03:41:25 4 MR. MICHALIK: Objection, Judge.

03:41:25 5 THE COURT: Overruled.

03:41:27 6 THE WITNESS: The policy of the police department?

03:41:29 7 BY MR. LOEVY:

03:41:30 8 Q. Right, back then?

03:41:31 9 A. The practice at the time was to do exactly how we prepared  
03:41:33 10 that report.

03:41:33 11 Q. In other words, the one description at the beginning  
03:41:39 12 attributable to no witness, this is page 14, sort of a one  
03:41:45 13 description, right?

03:41:47 14 A. Are you talking about number 1 or No. 2?

03:41:50 15 Q. Both of them. One description for the whole report,  
03:41:54 16 right?

03:41:54 17 A. That's a description of two of the wanted.

03:41:56 18 Q. That's the only description in the report, correct?

03:41:59 19 A. Correct.

03:41:59 20 Q. And you're saying that that description was given by  
03:42:03 21 Martha Robinson, Kenya Robinson, Inetta Watts, Willie  
03:42:09 22 Langston, Eric Benson, Cleveland Ball, everybody gave that  
03:42:12 23 description?

03:42:12 24 MR. MICHALIK: Objection, Judge.

03:42:13 25 THE COURT: Overruled.

03:42:13 1 BY MR. LOEVY:

03:42:14 2 Q. Did everybody give that description?

03:42:17 3 A. I don't recall.

03:42:17 4 Q. You are not claiming everybody gave the same description,  
03:42:19 5 are you?

03:42:20 6 A. I would never do that, no.

03:42:21 7 Q. But this is not an aberration, this is the way it's  
03:42:27 8 supposed to be documented, one description, don't attribute it  
03:42:30 9 to any witness?

03:42:31 10 MR. KULWIN: Objection, Judge. Asked and answered.

03:42:33 11 THE COURT: Sustained.

03:42:34 12 BY MR. LOEVY:

03:42:36 13 Q. All right. You said that Mr. Fields, you'd hope, would  
03:42:41 14 get the GPRs, right?

03:42:42 15 A. Pardon?

03:42:44 16 Q. You said the reason you felt you weren't worried about the  
03:42:47 17 GPR being in the description of the GPR is because you thought  
03:42:49 18 the GPRs went to the criminal defendants, correct?

03:42:52 19 A. They should go to everybody.

03:42:53 20 MR. KULWIN: Objection.

03:42:54 21 THE COURT: Hang on a second. There was an  
03:42:56 22 objection. It's overruled. Now ask another question.

03:42:59 23 BY MR. LOEVY:

03:42:59 24 Q. They didn't always go, did they?

03:43:01 25 A. I don't know that.

03:43:02 1 Q. Showing you Plaintiff's Exhibit 1-98, this is a GPR saying  
03:43:07 2 Rode11 Banks was the shooter. Do you see that?  
03:43:09 3 A. I do.  
03:43:10 4 Q. That didn't make it into a supp report, did it?  
03:43:13 5 MR. MICHALIK: Objection, foundation.  
03:43:14 6 THE COURT: Well, I am going to sustain the objection  
03:43:16 7 on the ground it's been sufficiently covered by other  
03:43:19 8 witnesses.  
03:43:20 9 BY MR. LOEVY:  
03:43:20 10 Q. All right. Showing you 194-43, this is a note that you  
03:43:24 11 took?  
03:43:24 12 A. Correct.  
03:43:26 13 Q. And it describes a woman named Kenya Robinson, right?  
03:43:31 14 A. 11 year old.  
03:43:32 15 Q. And she's an eyewitness apparently, right?  
03:43:36 16 A. She heard some gunshots and she saw two people running.  
03:43:39 17 Q. Where does it say that in the supp report that she could  
03:43:43 18 -- an 11 year old was out there who saw the offenders well  
03:43:46 19 enough to give a description of what they were wearing? It's  
03:43:49 20 not in your supp report, is it?  
03:43:50 21 A. The information that she gave is in the supp report.  
03:43:54 22 Q. And you're talking about generally, is this what you mean  
03:43:59 23 the information that she gave?  
03:44:00 24 A. Correct.  
03:44:00 25 Q. I thought you said Cleveland Ball gave that information?

03:44:03 1 MR. KULWIN: Objection, Judge, argumentative.

03:44:04 2 THE COURT: Sustained. For the record, Mr. Loevy was  
03:44:08 3 pointing to the first two paragraphs on page 2 of what  
03:44:12 4 exhibit?

03:44:12 5 MR. LOEVY: 194-14.

03:44:14 6 THE COURT: Thanks.

03:44:15 7 BY MR. LOEVY:

03:44:15 8 Q. All right. Would you agree, though, sir, being familiar  
03:44:17 9 with your own report, that there is no summary of what Kenya  
03:44:22 10 Robinson supposedly said other than this on page dash 16,  
03:44:27 11 Kenya Robinson, 11 years of age at this address heard four  
03:44:31 12 gunshots and saw two subjects run north from under the  
03:44:34 13 breezeway and then west around the building, correct?

03:44:36 14 A. Correct.

03:44:37 15 Q. That's the sum total of the information in your report?

03:44:39 16 A. In the supplementary report, correct.

03:44:40 17 Q. And if someone in Mr. Fields' shoes received only your  
03:44:45 18 supp report, he would know would he that there was an 11 year  
03:44:48 19 old who was claiming to have seen this, this being the GPR?

03:44:51 20 A. If the only thing he had to look at was the supp report.

03:44:54 21 Q. Right.

03:45:03 22 THE COURT: I don't think there was -- was that your  
03:45:06 23 answer or were you asking a question back?

03:45:08 24 THE WITNESS: Yes.

03:45:08 25 THE COURT: I wasn't clear whether there was a

03:45:11 1 question mark at the end. There wasn't. Go ahead.

03:45:12 2 BY MR. LOEVY:

03:45:13 3 Q. Carlos Willis, you've looked at his report, correct?

03:45:16 4 A. Correct.

03:45:16 5 Q. In fact, you've looked at a lot of these reports to

03:45:19 6 prepare for your testimony today, correct?

03:45:21 7 A. I did.

03:45:22 8 Q. That was how you were able to refresh your recollection?

03:45:24 9 A. As best I could.

03:45:26 10 Q. When you're testifying about I did this, then I did this,

03:45:29 11 then I did this, would it be more accurate to say you reviewed

03:45:32 12 the reports and you believe you did this?

03:45:33 13 A. What do you mean I believe I did this?

03:45:36 14 Q. In other words, are you claiming an independent

03:45:38 15 recollection of all of these interviews?

03:45:40 16 A. No, absolutely not.

03:45:41 17 Q. It's been way too many years to remember this stuff,

03:45:44 18 right?

03:45:44 19 A. Correct.

03:45:44 20 Q. To if I was to tell you Kenya Robinson's interview vest

03:45:48 21 Inetta Watts interview, no way you could remember those

03:45:51 22 interviews, right?

03:45:51 23 A. Correct.

03:45:51 24 Q. Because you did this too often at your job?

03:45:54 25 A. Unfortunately, you're right.

03:45:57 1 Q. You've now looked at the Carlos Willis report?

03:46:01 2 A. I have.

03:46:01 3 Q. And there is no indication in the Carlos Willis report

03:46:03 4 that he gave -- had any ability to give a description, would

03:46:07 5 you agree?

03:46:07 6 A. Other than the fact that he was across the street.

03:46:09 7 Q. I'm saying a description?

03:46:10 8 A. And saw what happened.

03:46:11 9 Q. He had no description of the offenders faces, hair,

03:46:15 10 nothing like that, correct?

03:46:15 11 A. He might have given. I am not quite sure.

03:46:18 12 Q. If he had, you would have written it down, right?

03:46:21 13 A. It would have been, exactly. I don't see anyone here.

03:46:28 14 Q. All right. So there would have been no reason to put him

03:46:31 15 in a lineup, would there?

03:46:33 16 MR. MICHALIK: Objection, Judge.

03:46:34 17 THE COURT: Sustained.

03:46:35 18 BY MR. LOEVY:

03:46:38 19 Q. All right. Let's talk about the Hawkins photo and the

03:46:42 20 Hawkins report. This is your handwriting on the back of Earl

03:46:46 21 Hawkins, right?

03:46:46 22 A. It is.

03:46:47 23 Q. So you were the one who requested Earl Hawkins's photo,

03:46:50 24 right?

03:46:50 25 A. I don't know that to be a fact.

03:46:52 1 Q. Well, tell the jury why you guys -- what this means,  
03:46:57 2 issued on inquiry April 27th?  
03:46:58 3 A. Whenever you would request a criminal history on someone,  
03:47:04 4 they would Bates stamp it, hand stamp it.  
03:47:07 5 Q. And this one sometimes they forgot to turn it over a day,  
03:47:11 6 didn't they?  
03:47:11 7 A. Evidently.  
03:47:12 8 Q. Because that should say April 28th, you believe?  
03:47:14 9 A. It should or later.  
03:47:15 10 Q. When you requested the rap sheet, the reason you guys  
03:47:19 11 would do that is so that you could get a photograph of the  
03:47:22 12 suspect, correct?  
03:47:22 13 A. We would also request a photograph.  
03:47:24 14 Q. All right. And you would request a photograph if you had  
03:47:28 15 some reason to believe that the person might be involved,  
03:47:31 16 right?  
03:47:31 17 A. Well, also to identify who you are talking to if you have  
03:47:35 18 to go out and speak with them.  
03:47:36 19 Q. All I'm saying is at some point, you had to have some  
03:47:40 20 reason to believe Earl Hawkins had something to do with this  
03:47:44 21 sometime around April 28th, 1984, correct?  
03:47:47 22 A. No.  
03:47:47 23 Q. You didn't pull the photograph of everybody in the  
03:47:50 24 universe, did you?  
03:47:51 25 A. He was an El Rukn general. We had information that the El



03:47:57 1 Rukns were involved.

03:47:58 2 Q. And by information, you're talking about that one report  
03:48:01 3 reference that is unattributable to anybody that said  
03:48:04 4 something about an El Rukn, correct?

03:48:05 5 MR. KULWIN: Objection, argumentative.

03:48:07 6 THE COURT: Overruled. The answer correct -- the  
03:48:09 7 answer said correct. The answer can stand.

03:48:11 8 THE WITNESS: Correct.

03:48:12 9 BY MR. LOEVY:

03:48:12 10 Q. All right. There is also not one word in the file  
03:48:15 11 anywhere about why somebody thought Hawkins was a suspect, do  
03:48:19 12 we agree on that?

03:48:20 13 A. In the file, meaning --

03:48:23 14 Q. Anywhere written down, not one word?

03:48:25 15 A. As far as our investigation goes?

03:48:27 16 Q. As far as any piece of paper you've ever seen ever?

03:48:30 17 A. Not that I know of.

03:48:31 18 Q. And that there's no GPR, there's no report, there's no  
03:48:35 19 note, nothing that explains why on April 28th, Earl Hawkins  
03:48:39 20 was a suspect, do we agree?

03:48:42 21 MR. KULWIN: Objection, asked and answered.

03:48:42 22 THE COURT: Sustained. You covered it.

03:48:43 23 BY MR. LOEVY:

03:48:46 24 Q. And the reason you pulled the photograph is to show  
03:48:50 25 people, correct?

03:48:52 1 A. I said I'm not sure whether or not I did pull the  
03:48:54 2 photograph.

03:48:55 3 Q. Well, it's your handwriting on the back of the photograph,  
03:48:57 4 right?

03:48:57 5 A. There's no doubt, that is my handwriting.

03:49:00 6 Q. And you talked to people who at least saw something,  
03:49:05 7 correct?

03:49:05 8 A. Yes.

03:49:06 9 Q. And if any of those people had identified Earl Hawkins as  
03:49:10 10 the suspect, you would have written that down, right?

03:49:12 11 A. I would have.

03:49:14 12 Q. And is there any doubt in your mind that if you had  
03:49:17 13 photographs available of possible suspects and you had  
03:49:20 14 witnesses who had seen something, you would have shown the  
03:49:23 15 witnesses the photographs?

03:49:24 16 A. Well, like I described before, I would have shown a photo  
03:49:30 17 array with an individual that was suspected of this crime in  
03:49:34 18 the photo array. I wouldn't show it one-on-one, no.

03:49:36 19 Q. But you showed either individually or in a group, did  
03:49:40 20 anybody identify Earl Hawkins in 1984?

03:49:42 21 A. No.

03:49:43 22 Q. You were also apparently pulled the photo of someone named  
03:49:54 23 sundown, correct?

03:49:56 24 A. I didn't know that nickname.

03:49:58 25 Q. Well, you don't know either way whether you know that,

03:50:01 1 would that be more accurate?

03:50:02 2 MR. MICHALIK: Objection, Judge, argumentative.

03:50:04 3 THE COURT: Overruled.

03:50:07 4 BY MR. LOEVY:

03:50:07 5 Q. Do you remember the question?

03:50:08 6 A. Whether or not I pulled a photograph of someone named  
03:50:11 7 sundown?

03:50:11 8 Q. Showing you Plaintiff's Exhibit 121, Doyle's nickname was  
03:50:15 9 sundown, correct?

03:50:16 10 A. It shows it on there, yes, sir.

03:50:18 11 Q. All right. So you're not saying 30 years ago I remember I  
03:50:22 12 didn't know his nickname was sundown, did you?

03:50:24 13 A. I didn't remember the nickname at all.

03:50:26 14 Q. You might have known Hawkins and sundown in 1984, correct?

03:50:30 15 MR. KULWIN: Objection, argumentative.

03:50:31 16 THE COURT: Sustained.

03:50:31 17 BY MR. LOEVY:

03:50:32 18 Q. Is there any indication in the file why the police were  
03:50:34 19 looking for Hawkins and sundown?

03:50:36 20 A. Is there any indication that they were looking for him?

03:50:40 21 Q. Why they were?

03:50:41 22 A. Not to my knowledge, no.

03:50:44 23 Q. Is there any indication why they were looking for someone  
03:50:46 24 named Doyle whose nickname was sundown?

03:50:48 25 A. Not to my knowledge, no.

03:50:50 1 Q. Is that consistent with the policies and practices of the  
03:50:54 2 police department that there wouldn't be a recording of why  
03:50:57 3 the police were looking for a Hawkins and sundown?

03:51:00 4 MR. MICHALIK: Judge, if I could be heard on this  
03:51:02 5 issue.

03:51:02 6 THE COURT: Take the document off the screen. Bring  
03:51:05 7 it to sidebar, please.

03:51:14 8 (The following proceedings were had at sidebar outside the  
03:51:16 9 hearing of the jury:)

03:51:16 10 THE COURT: Yes, sir.

03:51:19 11 MR. MICHALIK: Here is the problem that I see with  
03:51:20 12 this line of questioning. It's not so much the document but  
03:51:22 13 this whole line of questioning as to whether -- I deliberately  
03:51:26 14 did not ask him very specific questions as to why the  
03:51:30 15 detectives would have just automatically suspected El Rukns.  
03:51:35 16 On this line of questioning, I think I am going to ask you any  
03:51:39 17 reason why a detective investigating a murder at that location  
03:51:41 18 without any other information would suspect El Rukns.

03:51:44 19 THE COURT: After he said about six times because he  
03:51:47 20 was asked six times that he doesn't know why this was done,  
03:51:50 21 why this was pulled.

03:51:52 22 MR. KULWIN: He didn't say that, Judge. He said --

03:51:55 23 THE COURT: Go ahead. I'm listening.

03:51:57 24 MR. KULWIN: He said it three or four times. But his  
03:51:59 25 initial answer was because we had information that the El

03:52:02 1 Rukns were involved and then another answer because he was an  
03:52:05 2 El Rukn general and another answer was because the El Rukns  
03:52:08 3 from dealing drugs there. He said all of those things.

03:52:11 4 THE COURT: Let me go look.

03:52:47 5 So the gist of what he said was he pulled the photo  
03:52:51 6 because he was an El Rukn general and he had information that  
03:52:56 7 El Rukns were involved, there was a question along the lines  
03:52:59 8 of, is that a reference to that one reference in the report  
03:53:02 9 that doesn't attribute it to anybody, he says correct. And  
03:53:05 10 then Mr. Loevy asked him a series of questions about is there  
03:53:09 11 anything written down anywhere that explains this and he  
03:53:12 12 basically says no to that several times.

03:53:15 13 MR. MICHALIK: There is nothing written down.

03:53:16 14 THE COURT: What are you expecting his answer to be  
03:53:18 15 to the question that you want to ask.

03:53:22 16 MR. MICHALIK: I don't want to go beyond any rulings  
03:53:24 17 about El Rukns in general, and so when I ask him why, I am not  
03:53:30 18 exactly sure what he is going to say.

03:53:31 19 THE COURT: Ha ha. Yeah. Have you talked to him?

03:53:36 20 MR. MICHALIK: No.

03:53:39 21 THE COURT: Okay. I'll take your semi educated guess  
03:53:42 22 on what he is going to say.

03:53:43 23 MR. KULWIN: My semi educated guess and Paul can hit  
03:53:47 24 me in the head if I'm wrong.

03:53:48 25 MR. MICHALIK: My guess is because of the location of

03:53:50 1 that, 706 right down the street from the Fort, you would  
03:53:55 2 automatically.

03:53:56 3 THE COURT: Assume it was maybe an El Rukn was  
03:54:00 4 involved.

03:54:00 5 MR. LOEVY: I he has already been asked because  
03:54:03 6 Hawkins was an El Rukn general and I had information, so what  
03:54:06 7 additional relevant information is missing? That's our point,  
03:54:09 8 your Honor.

03:54:09 9 MR. KULWIN: It's --

03:54:11 10 MR. LOEVY: He has been asked and he answered it.

03:54:13 11 MR. KULWIN: That's their version of reality. We  
03:54:14 12 have a different version of reality.

03:54:16 13 THE COURT: So here's the way I put it to you. I  
03:54:19 14 think that you can ask is there some -- was there some reason  
03:54:22 15 why you would have been pulling Mr. Hawkins' photo, and you  
03:54:33 16 don't know what the answer is going to be, if it's something I  
03:54:37 17 excluded, you want to start again on Monday. Seriously, I'm  
03:54:40 18 telling you, you're going to wing a question at him you told  
03:54:43 19 me right here, both of you told me you do not know the answer  
03:54:46 20 to the question, you are going to wing a question to him, I  
03:54:49 21 don't think any door has opened far enough to violate a motion  
03:54:54 22 in limine. You act at your peril.

03:54:55 23 MR. KULWIN: Five seconds to bring him over to  
03:54:58 24 sidebar. It's done all the time that way you avoid all that  
03:55:01 25 and you can find out exactly what he is going to say. They

03:55:03 1 did open the door. And he should be entitled to testify.

03:55:06 2 MR. LOEVY: He already has been voir dired. You  
03:55:08 3 asked the question. He was asked the question he said he was  
03:55:13 4 because he was an El Rukn general.

03:55:15 5 THE COURT: Okay. So what you're telling me is you  
03:55:17 6 want me to send the jury out.

03:55:18 7 MR. KULWIN: You don't have to do that.

03:55:20 8 THE COURT: I am not going to bring a witness over to  
03:55:22 9 sidebar.

03:55:23 10 MR. KULWIN: Yeah.

03:55:23 11 THE COURT: You may have seen that done. I haven't.  
03:55:26 12 I am not going to do it. You want me to send the jury out so  
03:55:28 13 I can do this? It's a yes or no? Just say yes or no. It's a  
03:55:33 14 yes or no question. Answer it yes or no.

03:55:35 15 MR. KULWIN: I think a voir dire.

03:55:36 16 THE COURT: You want me to send the jury out so I can  
03:55:38 17 voir dire him. That's the only way to voir dire him.

03:55:41 18 MR. KULWIN: Yes.

03:55:41 19 THE COURT: Just say it.

03:55:42 20 MR. LOEVY: The jury looks very bored.

03:55:45 21 MR. KULWIN: Because your examination is boring.

03:55:49 22 (The following proceedings were had in open court in the  
03:55:50 23 presence and hearing of the jury:)

03:55:50 24 THE COURT: We will deal with the issue we had at  
03:55:51 25 sidebar after the conclusion of the cross.



03:55:54 1 Go ahead, Mr. Loevy.

03:55:55 2 MR. LOEVY: Thank you, your Honor.

03:55:55 3 BY MR. LOEVY:

03:56:05 4 Q. All right. Fair to say that based on memory alone, you  
03:56:08 5 can't remember anymore exactly why Hawkins and sundown's  
03:56:12 6 photos were pulled, that's probably true, isn't it?

03:56:16 7 THE COURT: I'm sorry?

03:56:18 8 MR. KULWIN: I withdraw it. I apologize.

03:56:23 9 THE WITNESS: Correct, other than the fact owe that  
03:56:26 10 was El Rukn territory.

03:56:26 11 BY MR. LOEVY:

03:56:27 12 Q. Were you showing the witnesses the photos that you had  
03:56:29 13 pulled of these El Rukns, Mr. Hawkins and sundown?

03:56:33 14 A. No, I said before and I'm saying again, I did not show any  
03:56:38 15 photographs.

03:56:40 16 Q. And you said because if you showed an eyewitness a  
03:56:43 17 photograph, that could taint them?

03:56:45 18 A. If you don't do it correct, the photo array, it possibly  
03:56:49 19 could.

03:56:50 20 MR. LOEVY: I have no further questions, your Honor.

03:56:51 21 THE COURT: And based on what he answered, I don't  
03:56:53 22 think you need the sidebar. We don't need a further sidebar  
03:56:56 23 at this point.

03:56:58 24 MR. MICHALIK: Agreed, your Honor.

03:56:59 25 THE COURT: That's fine.



03:57:00 1 MR. MICHALIK: Very briefly. Do you have questions?

03:57:05 2 MR. KULWIN: Am I allowed to ask? He's first anyway.

03:57:09 3 THE COURT: Yeah, go ahead. Hand him a note.

03:57:12 4 MR. KULWIN: Am I allowed to ask afterwards?

03:57:16 5 THE COURT: You are forgetting something. Okay.

03:57:19 6 MR. KULWIN: You first.

03:57:22 7 - - -

03:57:22 8 ROBERT EVANS, REDIRECT EXAMINATION

03:57:22 9 BY MR. MICHALIK:

03:57:23 10 Q. If I could have defendants' 60-4 back up on the screen,

03:57:28 11 please.

03:57:29 12 We are looking at a page from your scene report,

03:57:42 13 correct?

03:57:43 14 A. Correct.

03:57:43 15 Q. You were asked some questions about Eric Benson and

03:57:45 16 Cleveland Ball. And how anybody could tell that they were the

03:57:49 17 individuals who provided the description that you included in

03:57:54 18 the wanted section of the report. Do you remember those

03:57:56 19 questions?

03:57:57 20 A. Yes.

03:57:57 21 Q. All right. If we look over here, you have them listed as

03:58:02 22 witnesses?

03:58:03 23 A. Correct.

03:58:03 24 Q. And then right below that, you have some individuals

03:58:09 25 identified as interviewed, do you see that there?

03:58:11 1 A. I do.

03:58:11 2 Q. All right. And Eric Benson is identified as an  
03:58:16 3 eyewitness?

03:58:17 4 A. Correct.

03:58:17 5 Q. And would that be an indication that he was one of the  
03:58:22 6 individuals who provided you with a description?

03:58:25 7 A. Correct.

03:58:25 8 Q. And there are only two witnesses listed here, true?

03:58:28 9 A. Correct.

03:58:29 10 Q. And that's Eric Benson and Cleveland Ball?

03:58:31 11 A. Yes.

03:58:33 12 MR. MICHALIK: Your Honor, if I could have one  
03:58:34 13 moment.

03:58:35 14 THE COURT: Okay.

03:58:39 15 (Brief pause.)

03:59:24 16 BY MR. MICHALIK:

03:59:24 17 Q. One last question from me. The eight pages of GPRs that  
03:59:27 18 we were talking about?

03:59:28 19 A. Yes.

03:59:28 20 Q. Have you ever been told that those were not ever provided  
03:59:31 21 to Mr. Fields?

03:59:32 22 A. I was not, no.

03:59:35 23 MR. MICHALIK: All right. No further questions,  
03:59:37 24 Judge.

03:59:38 25 MR. KULWIN: No.

03:59:39 1 MR. LOEVY: Just one.

03:59:40 2 THE COURT: One recross examination croak.

03:59:42 3 BY MR. LOEVY:

03:59:42 4 Q. This description, the composite description on the ELMO?

03:59:46 5 THE COURT: I got to switch it back the ELMO. It was  
03:59:49 6 on the computer for a second. Just a second.

03:59:55 7 BY MR. LOEVY:

03:59:56 8 Q. Of a man who appeared as young at 20 or 21, do you see  
03:59:59 9 that?

03:59:59 10 A. Yes.

03:59:59 11 Q. That does not describe someone who is in their 30s, would  
04:00:02 12 you agree with that?

04:00:03 13 MR. KULWIN: Objection, asked and answered, outside  
04:00:04 14 the scope.

04:00:05 15 THE COURT: Argumentative. Sustained.

04:00:07 16 MR. LOEVY: I have no further questions.

04:00:08 17 THE COURT: Any of the jurors have questions for the  
04:00:09 18 witness? I see none. You're excused.

04:00:12 19 THE WITNESS: Thank you.

04:00:12 20 THE COURT: All right. Next. Is it a live witness,  
04:00:15 21 are we reading something?

04:00:16 22 MR. KULWIN: We are reading two things, Judge.

04:00:18 23 THE COURT: Okay. What is it we are reading?

04:00:47 24 MS. KATZ: Gerald Morris. There's two transcripts  
04:00:49 25 that we are going to be reading. We will start with the first

04:00:51 1 one.

04:00:51 2 THE COURT: Got it. Can I just see you quickly at  
04:00:55 3 sidebar? I want to tell the jury what transcripts, but I want  
04:00:58 4 to ask you at sidebar first.

04:01:00 5 MS. KATZ: Sure. (Brief pause) .

04:01:13 6 THE COURT: As I understand it the first one you are  
04:01:17 7 requesting to read from is Mr. Morris' criminal trial.

04:01:23 8 MS. KATZ: Yes. And to give you a head's up, we are  
04:01:25 9 going to be using an Elmo for one exhibit.

04:01:28 10 THE COURT: Got it. It's on the ELMO; again, this is  
04:01:32 11 just somebody reading testimony and somebody reading questions  
04:01:34 12 and answers not the actual witnesses. Go ahead. This is.

04:01:39 13 MS. KATZ: This is the direct of Mr. Rueckert.

04:01:44 14 THE COURT: You mean by Rueckert. I don't think he  
04:01:47 15 was a witness,.

04:01:47 16 - - -

04:01:47 17 GERALD MORRIS, DIRECT EXAMINATION

04:01:47 18 BY MS. KATZ:

04:01:51 19 Q. Mr. Witness, I am going to ask you to keep your voice up  
04:01:53 20 so everyone can hear us.

04:01:55 21 A. Okay.

04:01:56 22 Q. Tell us your name and spell your last name for the court  
04:02:00 23 reporter?

04:02:00 24 A. My name is Gerald Morris, Morris.

04:02:03 25 Q. How old are you, Gerald?

04:02:04 1 A. 23.

04:02:05 2 Q. Gerald, I want to direct your attention to April of 1984.

04:02:08 3 Can you tell the Court where you were living in April of 1984?

04:02:12 4 A. I was living on 38 east Pershing road, 706 building.

04:02:18 5 Q. Is that the building at the corner of Langley and Pershing

04:02:20 6 road?

04:02:21 7 A. Yes.

04:02:21 8 Q. What apartment are you living in at that building?

04:02:24 9 A. 106.

04:02:25 10 Q. And that's the front or the back of the building?

04:02:28 11 A. That's in the back of the building.

04:02:30 12 Q. How many floors did your apartment have?

04:02:32 13 A. Two.

04:02:33 14 Q. Now, I want to direct your attention specifically to April

04:02:37 15 28th, 1984, about 10:00 o'clock in the morning. Can you tell

04:02:41 16 the Court where you were at about 10:00 o'clock that morning?

04:02:44 17 A. I was looking out the window, talking to Fuddy.

04:02:47 18 Q. When you say you were talking to Fuddy, who was Fuddy?

04:02:50 19 A. That's Jerome Smith.

04:02:52 20 Q. And was Fuddy a friend of yours?

04:02:56 21 A. Yes.

04:02:56 22 Q. How long had you known Fuddy?

04:02:58 23 A. I had known him about five years.

04:02:59 24 Q. When you say you were looking out the window talking to

04:03:03 25 Fuddy, would that be the window on the first floor or the

04:03:07 1 second floor of your apartment?

04:03:08 2 A. Second floor.

04:03:09 3 Q. And as you look out of that window, what can you see?

04:03:12 4 A. I can see everything.

04:03:14 5 Q. Is there a parking lot behind your building?

04:03:16 6 A. Yes.

04:03:17 7 Q. Could you see the parking lot?

04:03:18 8 A. Yes.

04:03:19 9 Q. How long did you talk to Fuddy?

04:03:22 10 A. A couple of minutes.

04:03:24 11 Q. And did you see where Fuddy went after you were finished

04:03:27 12 talking to him?

04:03:28 13 A. Yes, up on the breezeway.

04:03:30 14 Q. All right. Gerald, I'm going to ask you to take a look at

04:03:34 15 this drawing which has been marked as People's Exhibit No. 5.

04:03:37 16 Do you recognize what that is a drawing of?

04:03:40 17 A. Yes.

04:03:41 18 Q. And what is that a drawing of?

04:03:42 19 A. That's a map of the Ida B. Wells homes.

04:03:45 20 Q. Do you see the building where you live in?

04:03:47 21 A. Yes, 706.

04:03:49 22 Q. Do you see the apartment you live in?

04:03:51 23 A. Yes.

04:03:52 24 Q. Would you come down here and put an X on the apartment you

04:03:56 25 lived in?

04:03:57 1 A. Yes.

04:03:57 2 Q. Now, you testified there was a parking lot in your

04:04:01 3 building; is that correct?

04:04:02 4 A. Yes.

04:04:03 5 Q. Do you see that parking lot?

04:04:04 6 A. Yes.

04:04:05 7 Q. Would you point to the parking lot?

04:04:07 8 A. Right here.

04:04:08 9 Q. The big area right there?

04:04:10 10 A. Yes.

04:04:11 11 Q. You say you were in a window of your apartment. Can you

04:04:16 12 put maybe a couple of lines indicating a window in the

04:04:21 13 apartment you were looking out of?

04:04:22 14 A. Here is the window here.

04:04:23 15 Q. Put an X. That's fine.

04:04:25 16 Is that the window you were talking out of to Fuddy?

04:04:28 17 A. Yes.

04:04:28 18 Q. All right. And you say you saw Fuddy go to the breezeway.

04:04:33 19 Can you draw a line where you saw Fuddy go?

04:04:35 20 A. The breezeway is like this.

04:04:38 21 Q. You can sit back down.

04:04:40 22 I'm going to show you what has been marked as

04:04:42 23 Defendant's Exhibit 388 for identification.

04:04:52 24 THE COURT: Everybody agrees that's the thing that he

04:04:54 25 was referring to during the trial?

04:04:55 1 MS. KATZ: Correct, your Honor.

04:04:56 2 BY MS. KATZ:

04:04:58 3 Q. Do you recognize what is -- this is a picture of?

04:05:02 4 A. That's my -- yeah, that's my building.

04:05:05 5 Q. Do you see your apartment in there?

04:05:08 6 A. Yes.

04:05:08 7 Q. Do you see the window in that exhibit where you were  
04:05:10 8 talking to Fuddy?

04:05:11 9 A. Yes.

04:05:11 10 Q. At this point, would you come down.

04:05:17 11 THE COURT: Again, as with the last witness,  
04:05:18 12 everybody agrees that he came down and is going to point to  
04:05:21 13 whatever he is about to point to there.

04:05:23 14 MS. KATZ: Thank you, your Honor.

04:05:25 15 BY MS. KATZ:

04:05:26 16 Q. Circle the window you were talking to Fuddy from.

04:05:30 17 May the record reflect, Judge, the witness has  
04:05:33 18 circled the window, the second floor of this window  
04:05:36 19 Defendant's Exhibit 388.

04:05:37 20 Now, as you look at that picture right now, is there  
04:05:39 21 anything different about that picture, the condition of your  
04:05:42 22 apartment in that particular picture than from April 14th?

04:05:47 23 A. Yes.

04:05:47 24 Q. What's different?

04:05:48 25 A. We got boards up there now, but we had windows.



04:05:51 1 Q. There are boards in the window in this picture?

04:05:53 2 A. Yes.

04:05:53 3 Q. And there were windows are glass in the windows when you

04:05:57 4 were there?

04:05:57 5 A. Yes.

04:05:57 6 Q. Except for that, does this clearly and accurately depict

04:06:01 7 your apartment -- the apartment you looked in?

04:06:04 8 A. Yes.

04:06:04 9 Q. Judge, I would ask this picture be admitted into evidence

04:06:08 10 at this time.

04:06:09 11 Now, Gerald, after Fuddy went around the corner, did

04:06:22 12 you stay in the window?

04:06:22 13 A. Yes.

04:06:23 14 Q. And did you see anyone or anything unusual as you sat in

04:06:27 15 the window after Fuddy left?

04:06:29 16 A. Yes.

04:06:29 17 Q. What did you see?

04:06:30 18 A. I seen two males walk right behind him.

04:06:33 19 Q. Do you see -- did you see where they were coming from?

04:06:35 20 A. No, I didn't.

04:06:37 21 Q. Where is the first place you saw them?

04:06:40 22 A. Entering from the parking lot.

04:06:41 23 Q. All right. Which way were they walking when you first saw

04:06:45 24 them?

04:06:45 25 A. Walking in the same direction Fuddy was going.

04:06:47 1 Q. Would that be toward you?

04:06:49 2 A. Yes.

04:06:50 3 Q. Can you see these people's faces?

04:06:53 4 A. Yes.

04:06:53 5 Q. Can you describe these two guys?

04:06:56 6 A. Yes, the light skinned one he had on the red jacket and

04:07:01 7 the dark skinned one, he had on all blue.

04:07:03 8 Q. Now, you said they were light skinned and dark skinned.

04:07:06 9 Were they both black?

04:07:08 10 A. Yes.

04:07:08 11 Q. The light-skinned guy, how tall is he?

04:07:11 12 A. He was taller than the dark skinned guy, about five, nine.

04:07:15 13 Q. How tall would you say the dark skinned guy was?

04:07:18 14 A. About five, six.

04:07:20 15 Q. Now, was the light-skinned guy heavier or skinnier than

04:07:23 16 the dark skinned guy?

04:07:26 17 A. Skinnier.

04:07:27 18 Q. Could you see how these guys wore their hair?

04:07:30 19 A. Yes, they had braids in their hair.

04:07:31 20 Q. Both of them?

04:07:32 21 A. Yes.

04:07:32 22 Q. Could you see whether or not either one of these people

04:07:36 23 had hair on their face?

04:07:37 24 A. Yes, the dark skinned one had a beard and the other one

04:07:40 25 had a little beard, he didn't have that much.

04:07:42 1 Q. How close did these people get to you?

04:07:45 2 A. About five feet.

04:07:47 3 Q. And were you still in the second floor window when you saw

04:07:50 4 them?

04:07:50 5 A. Yes, I was still there.

04:07:52 6 Q. Did you see where these guys walked to?

04:07:55 7 A. Yes, they walked up under the breezeway too.

04:07:58 8 Q. I'm going to ask you to come off the witness stand again

04:08:05 9 with this pen mark the entire route you saw them walk.

04:08:09 10 A. All right. They walked about like this in front of the

04:08:12 11 place.

04:08:13 12 Q. May the record reflect, Judge, the witness has placed a

04:08:18 13 purple line on people's Exhibit No. 5. It would be the top

04:08:22 14 most line in this picture.

04:08:23 15 I'm going to show you what has been marked as

04:08:27 16 Defendant's Exhibit 389 for identification.

04:08:45 17 Gerald, is that also a picture of your apartment?

04:08:49 18 A. Yes.

04:08:49 19 Q. And do you see in there the window that you were in when

04:08:52 20 you were talking to Fuddy?

04:08:53 21 A. Yes.

04:08:54 22 Q. Is that the same window you saw the two individuals walk

04:08:57 23 by?

04:08:57 24 A. Yes.

04:08:58 25 Q. Would you circle that window, please.

04:09:08 1 Now, do you see in there the entrance to the  
04:09:10 2 breezeway?

04:09:13 3 A. Yes.

04:09:13 4 Q. All right. Where in this particular picture is the  
04:09:18 5 entrance to the breezeway?

04:09:19 6 A. Right here.

04:09:20 7 Q. All right. Can you write like a B on the entrance to the  
04:09:25 8 breezeway? May the record reflect, Judge, Defendant's Exhibit  
04:09:32 9 389 the witness has circled the second window from the right  
04:09:35 10 on the second floor and he has placed the letter B on the  
04:09:38 11 farthest left-hand portion of the picture.

04:09:42 12 Is that the corner you saw Fuddy go around?

04:09:43 13 A. Yes.

04:09:44 14 Q. Is that also the corner you saw these other two guys go  
04:09:47 15 around?

04:09:47 16 A. Yes.

04:09:47 17 Q. Judge, I would ask that these be admitted into evidence.

04:09:52 18 Gerald, I'm going to ask you to stand up and look  
04:10:06 19 around the courtroom. Do you see the two guys in court today  
04:10:09 20 you saw walk past your window?

04:10:11 21 A. Yes.

04:10:11 22 Q. Would you point them out, please?

04:10:14 23 A. Right there and right there.

04:10:15 24 Q. What did this guy have on when he walked by the window,  
04:10:19 25 the defendant, Earl Hawkins?

04:10:21 1 A. He had on a red jacket and blue jogging pants.

04:10:24 2 Q. And when you say Nathson, for this guy, Nathson Fields

04:10:31 3 what did he have on when he walked by the window?

04:10:33 4 A. All blue.

04:10:34 5 Q. May the record reflect, Judge, the witness has identified

04:10:37 6 both defendants in open court.

04:10:38 7 Gerald, after you saw the defendant Hawkins and

04:10:41 8 Fields walk by your window, where did you go?

04:10:44 9 A. I went to the next room to get my shirt.

04:10:46 10 Q. Were you going to go somewhere after you got your shirt?

04:10:48 11 A. Yes, I was going to go downstairs and talk to Fuddy.

04:10:50 12 Q. While you were in the next room getting your shirt, what

04:10:54 13 happened?

04:10:54 14 A. I heard several gunshots and I looked out the side window

04:10:58 15 and I seen the same defendants run back out.

04:11:01 16 Q. Now, when they walked past you the first time, did they

04:11:04 17 have anything in their hands?

04:11:06 18 A. No.

04:11:06 19 Q. When they ran by you the second time, did they have

04:11:09 20 anything in their hands?

04:11:10 21 A. Yes.

04:11:10 22 Q. What did they have in their hands at that time?

04:11:13 23 A. They had guns.

04:11:14 24 Q. Did each one of them have guns?

04:11:17 25 A. Yes.

04:11:17 1 Q. Could you see where they were running?

04:11:20 2 A. Yes, to a car.

04:11:22 3 Q. Where was the car parked?

04:11:24 4 A. The car was parked on Langley.

04:11:26 5 Q. Do you see where the car was parked on people's Exhibit

04:11:30 6 No. 5 there?

04:11:30 7 A. Yes.

04:11:31 8 Q. Would you point to it, please?

04:11:33 9 A. Right here.

04:11:34 10 Q. Judge, may the record reflect the witness is pointing to a

04:11:39 11 purple X on people's No. 5.

04:11:40 12 Did you see what the two guys did when they got to

04:11:43 13 their car?

04:11:44 14 A. Yes.

04:11:44 15 Q. What is the first thing they did?

04:11:47 16 A. The light skinned one, he tossed his car into the gun and

04:11:51 17 he climbed in first, and then the dark skinned one stood

04:11:54 18 around and owned the door, held the door while the other one

04:11:58 19 gets in.

04:11:58 20 Q. What did the dark skinned guy do after the light-skinned

04:12:02 21 guy got in the car?

04:12:03 22 A. He looked around.

04:12:04 23 Q. And then what did he do?

04:12:05 24 A. Then he got in the car and the car drove off.

04:12:07 25 Q. Were those the same two guys you seen by go by your front

04:12:13 1 window?

04:12:13 2 A. Yes.

04:12:13 3 Q. Did you see what the car did after they got in?

04:12:17 4 A. Yes, it took off.

04:12:18 5 Q. Which way did it go?

04:12:20 6 A. It went up Langley.

04:12:21 7 Q. When you say up, are you talking about to the top of that

04:12:25 8 picture there?

04:12:25 9 A. Yes.

04:12:26 10 Q. That would be north, right?

04:12:28 11 A. Yes.

04:12:29 12 Q. What did you do, Gerald, after the car drove off?

04:12:33 13 A. I had ran downstairs and went outside and I seen Talman

04:12:38 14 first.

04:12:38 15 Q. When you say Talman, who are you talking about?

04:12:40 16 A. Talman, I don't recall his last name.

04:12:41 17 Q. Talman Hickman?

04:12:43 18 A. Yes, Hickman, and I had went around the corner and I seen

04:12:47 19 Fuddy laying down there.

04:12:48 20 Q. What did you do after you saw Talman and Fuddy laying down

04:12:52 21 there?

04:12:52 22 A. Well, I had ran to the Ida B. Wells and I was telling

04:12:55 23 everybody that Fuddy and Talman had got shot.

04:12:57 24 Q. Did you talk to some police later that night?

04:13:00 25 A. Yes.

04:13:01 1 Q. Where was that?

04:13:02 2 A. That was at my apartment.

04:13:04 3 Q. Did you tell the police what you had seen?

04:13:06 4 A. Yes.

04:13:07 5 Q. Did you indicate whether you could identify the guys if

04:13:11 6 you saw them?

04:13:11 7 A. Yes.

04:13:12 8 Q. What did you tell them?

04:13:14 9 A. I told them that I can identify someone.

04:13:16 10 Q. Did the police leave then?

04:13:18 11 A. Yes, they said they would contact me.

04:13:21 12 Q. Were you still living in the building when they left,

04:13:26 13 correct?

04:13:26 14 A. Correct.

04:13:26 15 Q. When is the next time you were contacted by the police,

04:13:29 16 Gerald?

04:13:30 17 A. A year later.

04:13:30 18 Q. Now, Gerald, when is the next time you were contacted by

04:13:36 19 the police?

04:13:37 20 A. A year later.

04:13:37 21 Q. Do you remember the month?

04:13:38 22 A. It was -- no, I can't recall the month.

04:13:41 23 Q. Well, when the police contacted you, did they ask you to

04:13:45 24 do anything?

04:13:45 25 A. Yes, they asked me to come look at some photos.



04:13:48 1 Q. Did you go with the police somewhere?

04:13:50 2 A. Yes.

04:13:51 3 Q. Where did you go?

04:13:52 4 A. I came here.

04:13:54 5 Q. And did the police show you anything when they got you

04:13:58 6 here?

04:13:58 7 A. Yes, they showed me some photos.

04:14:00 8 Q. Approximately how many photos did they show you?

04:14:02 9 A. About 20 to 25.

04:14:04 10 Q. Did you identify any photos from that group?

04:14:08 11 A. Yes.

04:14:09 12 Q. How many?

04:14:10 13 A. Three.

04:14:11 14 Q. All right. Do you see pictures -- do you see the guys in

04:14:16 15 court today that you identified pictures of?

04:14:18 16 A. Yes.

04:14:19 17 Q. Are they the same two guys you identified?

04:14:22 18 A. Yes.

04:14:22 19 Q. After you made those identifications, were you contacted

04:14:26 20 by the police again?

04:14:27 21 A. Yes.

04:14:28 22 Q. When was that?

04:14:30 23 A. May 16th, 1985.

04:14:32 24 Q. Well, the next time the police contacted you, Gerald, what

04:14:36 25 did they ask you to do?

04:14:38 1 A. They asked me to look at a lineup.  
04:14:39 2 Q. All right. Did you look at a lineup?  
04:14:42 3 A. Yes.  
04:14:42 4 Q. Where was that?  
04:14:44 5 A. That was at area one.  
04:14:45 6 Q. And when you looked at the lineup, did you identify  
04:14:49 7 anybody from the lineup?  
04:14:50 8 A. Yes.  
04:14:51 9 Q. Who did you identify from the first lineup?  
04:14:54 10 A. I can't recall his name.  
04:14:56 11 Q. Do you see him in court today?  
04:14:58 12 A. Yes.  
04:14:58 13 Q. Which guy did you identify from the first lineup, right?  
04:15:03 14 A. Right here, the light skinned.  
04:15:05 15 Q. The light skinned person?  
04:15:07 16 A. Yes.  
04:15:07 17 Q. May the record reflect, Judge, the in court identification  
04:15:10 18 of Earl Hawkins.  
04:15:11 19 A couple days after the lineup, were you contacted by  
04:15:14 20 police again?  
04:15:15 21 A. Yes.  
04:15:16 22 Q. Did you look at another lineup?  
04:15:18 23 A. Yes.  
04:15:18 24 Q. Did you identify anybody in that lineup?  
04:15:22 25 A. Yes.

04:15:22 1 Q. Do you see that person in court today?

04:15:25 2 A. No.

04:15:26 3 Q. A while after that, did the police contact you again?

04:15:30 4 A. Yes.

04:15:31 5 Q. What did they ask you to do the third time they contacted

04:15:35 6 you?

04:15:35 7 A. To look at another lineup.

04:15:37 8 Q. Did you go somewhere to look at that lineup?

04:15:39 9 A. Yes.

04:15:40 10 Q. Where did you go?

04:15:41 11 A. To area one.

04:15:43 12 Q. To look at a lineup on that day?

04:15:45 13 A. Yes.

04:15:46 14 Q. Did you identify anyone from that third lineup?

04:15:49 15 A. Yes.

04:15:49 16 Q. Do you see that person in court today?

04:15:52 17 A. Yes.

04:15:53 18 Q. Would you please point him out?

04:15:55 19 A. Yes, right here.

04:15:57 20 Q. The dark skinned guy?

04:15:59 21 A. Yes.

04:15:59 22 Q. May the record reflect, Judge, again the identification of

04:16:02 23 Nathson Fields.

04:16:03 24 Gerald, did anyone tell you to identify -- to

04:16:07 25 identify from those lineups?

04:16:09 1 A. No.

04:16:09 2 Q. Gerald, I'm going to show you what has been marked as

04:16:13 3 Defendant's Exhibit 390.

04:16:26 4 Do you recognize what is in this photo?

04:16:31 5 A. That is my building.

04:16:33 6 Q. Is that your apartment?

04:16:35 7 A. Yes.

04:16:35 8 Q. You testified you went in a different room to get a shirt.

04:16:39 9 Do you see that window in that room?

04:16:41 10 A. Yes.

04:16:42 11 Q. Would you circle that window, please.

04:16:47 12 THE COURT: Again, it's agreed that this is what the

04:16:48 13 person did.

04:16:53 14 MS. KATZ: May the record reflect, Judge, that the

04:16:55 15 witness has placed a circle around the window, top right, in

04:16:58 16 Defendant's Exhibit 390.

04:17:02 17 BY MS. KATZ:

04:17:02 18 Q. Is that the window you saw the people running to the car

04:17:04 19 from?

04:17:05 20 A. Yes.

04:17:05 21 Q. Gerald, I'm going to show you what has been marked as

04:17:09 22 Defendant's Exhibit 391 for identification. Do you recognize

04:17:26 23 what that is a picture of?

04:17:29 24 A. The parking lot, yes.

04:17:30 25 Q. What is that a picture of?

04:17:32 1 A. The parking lot.

04:17:32 2 Q. Do you see on there where the car was parked you said you  
04:17:36 3 saw these guys running to?

04:17:38 4 A. Yes.

04:17:38 5 Q. Would you draw a square on that picture where you saw the  
04:17:43 6 car? Judge, may the record reflect the witness has placed a  
04:17:52 7 large square around the car that is parked right in the middle  
04:17:55 8 of this exhibit.

04:17:55 9 Do you see here, Gerald, the car to the parking lot  
04:17:58 10 where these guys were walking when you say you saw them?

04:18:01 11 A. Yes, they was coming this way.

04:18:03 12 Q. Just draw a line with an X or an arrow. I'm sorry.

04:18:07 13 Judge, may the record reflect the witness has placed an X  
04:18:11 14 right-hand side of Defendant's Exhibit 391.

04:18:14 15 Gerald, does this picture accurately depict the way  
04:18:17 16 the area looked when you saw them on April 28th?

04:18:20 17 A. Yes.

04:18:20 18 Q. Again, there are boards in the windows of this apartment,  
04:18:26 19 previous exhibit. When you saw them on April 28th. I'm  
04:18:30 20 sorry. When you lived there, were there boards on the windows  
04:18:33 21 or glass?

04:18:34 22 A. There was glass.

04:18:34 23 Q. So except for that, this looked the same way?

04:18:38 24 A. Right.

04:18:38 25 Q. Gerald, I'm going to show you what has been marked as

04:18:43 1 people's Exhibit No. 18 for identification. Do you recognize  
04:18:47 2 what that is a picture of?

04:18:48 3 A. That is a picture of the lineup.

04:18:51 4 Q. Which lineup is that?

04:18:52 5 A. This is the first lineup.

04:18:54 6 Q. Do you see the person in there that you identified?

04:18:57 7 A. Yes.

04:18:58 8 Q. Would you place an X over his head.

04:19:02 9 Judge, may the record reflect the witness has placed  
04:19:05 10 an X over the first person to the left in this lineup, the  
04:19:09 11 picture of Earl Hawkins.

04:19:10 12 I show you what has been marked as People's Exhibit  
04:19:15 13 No. 19 for identification. Do you recognize what that is a  
04:19:18 14 picture of?

04:19:19 15 A. Yes, this is a third lineup.

04:19:21 16 Q. All right. Is that the way the lineup looked when you  
04:19:24 17 looked at it?

04:19:25 18 A. Yes.

04:19:26 19 Q. Do you see the person in there you identified?

04:19:29 20 A. Yes.

04:19:30 21 Q. Would you place an X over his head, please? Judge, may  
04:19:35 22 the record reflect the witness has placed an X over the person  
04:19:38 23 under number 1 in People's Exhibit No. 19.

04:19:41 24 Gerald, I'm going to show you what is depicted as  
04:19:46 25 People's Exhibit No. 1 for identification. Do you recognize

04:19:50 1 that?

04:19:50 2 A. Yes.

04:19:51 3 Q. What is depicted in that photo?

04:19:53 4 A. Fuddy and Talman.

04:19:55 5 Q. Is that the way you saw Fuddy and Talman that day when you

04:19:59 6 went down there?

04:20:00 7 A. Yes.

04:20:00 8 Q. I want to show you what has been marked as People's

04:20:05 9 Exhibit No. 20. Do you recognize who is in that photo?

04:20:08 10 A. Yes.

04:20:09 11 Q. Who is that?

04:20:10 12 A. That's Fuddy.

04:20:11 13 Q. Finally, People's Exhibit No. 21 for identification, do

04:20:17 14 you recognize who is in that photo?

04:20:18 15 A. Yes, that is Talman.

04:20:18 16 - - -

04:20:18 17 ROBERT EVANS, CROSS-EXAMINATION

04:20:18 18 BY MR. HEPPELL: (Reading:)

04:20:36 19 Q. Mr. Morris, my name is Bill Swano. I met you in July of

04:20:39 20 1985. Do you remember that?

04:20:41 21 A. Yes.

04:20:42 22 Q. May I call you Gerald?

04:20:46 23 A. Go ahead.

04:20:46 24 Q. How long have you known Fuddy?

04:20:48 25 A. Five years.

04:20:48 1 Q. And from the building where you lived, you knew Fuddy?

04:20:51 2 A. No, through another friend of mine.

04:20:52 3 Q. And you knew that Fuddy was the leader or the head of the

04:20:55 4 Goon Squad?

04:20:55 5 A. Yes.

04:20:55 6 Q. And you were a member of the Goon Squad?

04:20:57 7 A. I was.

04:20:57 8 Q. How long have you been a member?

04:21:00 9 A. I really can't remember.

04:21:01 10 Q. Well, a couple of years?

04:21:03 11 A. I can't remember.

04:21:04 12 Q. A month, two months, a year, two years, do the best you

04:21:09 13 can.

04:21:09 14 A. About three years.

04:21:10 15 Q. And you have a cousin by the name of Randy Langston?

04:21:14 16 A. That is my brother-in-law.

04:21:15 17 Q. He was also a member of the Goon Squad?

04:21:18 18 A. Yes.

04:21:19 19 Q. Now, when you were living in this apartment, what was the

04:21:22 20 apartment number?

04:21:23 21 A. I think 106.

04:21:24 22 Q. How long had you been living there?

04:21:26 23 A. I was about a month.

04:21:29 24 Q. It wasn't your family's apartment, it was the Langston's

04:21:33 25 apartment?



04:21:33 1 A. Right.

04:21:34 2 Q. And it is your testimony that you had lived there for a

04:21:36 3 month?

04:21:36 4 A. Yes.

04:21:37 5 Q. Or did you just stay there sometimes?

04:21:39 6 A. Just lived there for a month. I came to move there with

04:21:42 7 them. It was about a month.

04:21:43 8 Q. You had actually moved your clothes and everything in?

04:21:45 9 A. Um-hmm, about a month.

04:21:47 10 Q. About a month?

04:21:47 11 A. Um-hmm.

04:21:48 12 Q. And then how long did you live there after the shooting

04:21:52 13 incident?

04:21:52 14 A. About two months after, I guess.

04:21:54 15 Q. Were you employed in April of '84?

04:21:57 16 A. Uhn-uhn.

04:21:58 17 Q. Are you employed now?

04:21:59 18 A. Uhn-uhn.

04:22:00 19 Q. Now, you testified that you were speaking with Fuddy; is

04:22:00 20 that right?

04:22:05 21 A. Yes.

04:22:05 22 Q. How long had you been looking out the window before you

04:22:09 23 saw Fuddy that day?

04:22:10 24 A. I was looking out for a long time.

04:22:12 25 Q. Well, when you say a long time, how long?

04:22:14 1 A. A couple -- about a couple minutes at the most.

04:22:17 2 Q. Two minutes?

04:22:18 3 A. Yes.

04:22:19 4 Q. And during that two minutes, did you see other people out

04:22:23 5 in the parking lot and in the playground?

04:22:25 6 A. No.

04:22:25 7 Q. The only person you saw was Fuddy is that right?

04:22:29 8 A. Fuddy, yes.

04:22:30 9 Q. Now, you were on the second floor, correct?

04:22:34 10 A. Correct.

04:22:34 11 Q. Was Fuddy downstairs on the sidewalk?

04:22:37 12 A. Yes.

04:22:38 13 Q. And how long did you talk to Fuddy?

04:22:40 14 A. About a couple of minutes.

04:22:42 15 Q. What did you talk about?

04:22:44 16 A. I asked him was Paul, did Paul get out of jail and he said

04:22:48 17 no. That's when he went around the front to stand and see to

04:22:53 18 wait for him. I told him I would be down as soon as I got

04:22:56 19 through ironing my shirt.

04:22:57 20 Q. Do you know Paul's last name?

04:22:59 21 A. No.

04:22:59 22 Q. Paul had been arrested the day before regarding the

04:23:02 23 shooting incident, correct?

04:23:03 24 A. Correct.

04:23:04 25 Q. And that shooting incident involved a person by the name

04:23:08 1 of Delbert Edwards, correct? Paul had been shooting at  
04:23:12 2 Delbert Edwards the day before, correct?  
04:23:14 3 A. I don't know what he was charged with.  
04:23:16 4 Q. Paul's last name was Paul Bailey; is that correct?  
04:23:20 5 A. I don't recall his last name, just know the first name.  
04:23:24 6 Q. Paul lived in the same apartment as Fuddy did, correct?  
04:23:26 7 A. Correct.  
04:23:26 8 Q. And they were good friends?  
04:23:29 9 A. Right.  
04:23:29 10 Q. Other than asking Fuddy whether Paul had gotten out of  
04:23:33 11 jail, what else did you talk about during that conversation?  
04:23:35 12 A. That's all.  
04:23:36 13 Q. Now, that conversation took place in two minutes?  
04:23:40 14 A. Yes.  
04:23:40 15 Q. When you were looking out the window, was anybody looking  
04:23:44 16 out the same window you were?  
04:23:45 17 A. That's my girlfriend, I was looking out the window with  
04:23:49 18 her.  
04:23:49 19 Q. What was her name?  
04:23:50 20 A. Sandra Langston.  
04:23:51 21 Q. And Sandra Langston lived in that same apartment?  
04:23:54 22 A. Yes.  
04:23:55 23 Q. 106?  
04:23:56 24 A. Yes.  
04:23:57 25 Q. Randy Langston lived there?

04:23:59 1 A. Yes.

04:23:59 2 Q. Eric Langston?

04:24:01 3 A. Yes.

04:24:01 4 Q. James Langston?

04:24:02 5 A. Yes.

04:24:03 6 Q. And you lived there?

04:24:04 7 A. Yes.

04:24:04 8 Q. Was Sandra speaking with Fuddy as you were?

04:24:07 9 A. No, she was just standing out there.

04:24:10 10 Q. She was standing near the window?

04:24:12 11 A. Yes.

04:24:12 12 Q. Was she leaning out the window?

04:24:14 13 A. Yes.

04:24:15 14 Q. Were you leaning out the window?

04:24:18 15 A. Yes, both of us.

04:24:19 16 Q. So both of you were hanging out the window but you were

04:24:23 17 talking to Fuddy?

04:24:24 18 A. I was talking to Fuddy.

04:24:25 19 Q. And she had no conversation with Fuddy; is that correct?

04:24:28 20 A. Yes.

04:24:29 21 Q. And there was nobody else in the playground or the parking

04:24:33 22 lot at that time?

04:24:34 23 A. No.

04:24:34 24 Q. Now, after Fuddy left and went into the breezeway, you

04:24:39 25 then went to get a T-shirt on or a shirt?

04:24:41 1 A. No, I stayed in the window.

04:24:43 2 Q. Well, for how long?

04:24:45 3 A. Oh, about a couple of minutes.

04:24:47 4 Q. How much time passed from the time Fuddy went into the

04:24:51 5 breezeway until you saw these two fellows?

04:24:53 6 A. I'd say about a good five minutes.

04:24:56 7 Q. About five minutes past after Fuddy went out the

04:25:00 8 breezeway, correct?

04:25:01 9 A. Yes.

04:25:01 10 Q. During that five minutes, did anybody else walk along that

04:25:05 11 sidewalk?

04:25:05 12 A. No.

04:25:06 13 Q. The first time you saw these two people, as you were

04:25:10 14 looking out the window, was when they were approximately down

04:25:14 15 from the window, right?

04:25:15 16 A. Yes.

04:25:16 17 Q. And that was the first time you laid eyes on them that

04:25:20 18 day?

04:25:21 19 A. Um-hmm.

04:25:21 20 Q. And of course, you were what, about 25 feet up?

04:25:24 21 A. No, I was -- I'd say five feet from the ground.

04:25:27 22 Q. About five feet from the ground?

04:25:29 23 A. Um-hmm.

04:25:30 24 Q. And you were looking down, so you could see the tops of

04:25:34 25 their heads?

04:25:34 1 A. You could see it straight as they walked in.

04:25:37 2 Q. And they didn't stop and talk with you, did they?

04:25:40 3 A. No.

04:25:40 4 Q. They walked right by?

04:25:41 5 A. Right.

04:25:42 6 Q. And then after that, you went and got your shirt?

04:25:45 7 A. Yes.

04:25:46 8 Q. Where did Sandra go?

04:25:49 9 A. I don't remember. I can't remember where she went to.

04:25:51 10 Q. Did Sandra stay in the window?

04:25:54 11 A. I can't remember where she went to.

04:25:56 12 Q. When you left the window, was Sandra still there?

04:25:59 13 A. I can't remember where she went to.

04:26:00 14 Q. You can't remember if she was still in the window?

04:26:03 15 A. No, I can't.

04:26:04 16 Q. How much time passed then after you went to get your shirt

04:26:10 17 until you heard shots?

04:26:11 18 A. I can't remember that.

04:26:12 19 Q. Well, was it like five or ten minutes?

04:26:15 20 A. I can't remember that.

04:26:16 21 Q. Was it a short time?

04:26:18 22 A. I'd say a good five minutes.

04:26:20 23 Q. After the two men walked under your window and into the

04:26:24 24 breezeway, how long did you remain looking out the window?

04:26:27 25 A. After they walked up under the breezeway, I got out the

04:26:32 1 window.

04:26:32 2 Q. Right after they walked by?

04:26:33 3 A. Right after they walked by and went up under the

04:26:37 4 breezeway.

04:26:37 5 Q. Now, you had your own bedroom?

04:26:40 6 A. Yes, me and her, yes.

04:26:41 7 Q. Showing you Defendant's Exhibit 390. Is your bedroom --

04:27:03 8 was your bedroom, is it shown by one of those windows?

04:27:06 9 A. Right here, that is my bedroom.

04:27:07 10 Q. Indicating the circled window.

04:27:12 11 And is that the room that you went in to get your

04:27:15 12 shirt?

04:27:18 13 A. Yes.

04:27:18 14 Q. And is that the room that you were in that you heard

04:27:21 15 shots?

04:27:22 16 A. Yes.

04:27:22 17 Q. And then you looked out that window and you saw men

04:27:26 18 running towards Langley, correct?

04:27:28 19 A. Yes.

04:27:28 20 Q. Now, as they were running, their backs were to you,

04:27:33 21 correct?

04:27:33 22 A. Correct.

04:27:34 23 Q. You could see the back of their head?

04:27:36 24 A. I could see, yes.

04:27:38 25 Q. And they had already passed this portion of the building

04:27:43 1 running towards Langley; is that right?

04:27:44 2 A. Yes.

04:27:44 3 Q. Now, did you see anybody in the car over on Langley?

04:27:49 4 A. No, it was too far off.

04:27:51 5 Q. You couldn't see anybody in that car?

04:27:53 6 A. No, it was too far for me to really see.

04:27:56 7 Q. So when you went to the second lineup and identified

04:28:00 8 George Carter, you couldn't say whether or not he was in that

04:28:03 9 car, can you?

04:28:04 10 A. No, not really.

04:28:06 11 Q. You can't say George Carter was in the car?

04:28:09 12 A. No.

04:28:09 13 Q. The car was too far away for you to see who was in it,

04:28:13 14 correct?

04:28:14 15 A. Yes.

04:28:14 16 Q. Now, these men ran in a straight frontal running motion,

04:28:19 17 right, they didn't run backwards?

04:28:21 18 A. No.

04:28:21 19 Q. And the men that got in the car were at the car when you

04:28:25 20 say they opened the door and turned in your direction?

04:28:29 21 A. Yes.

04:28:29 22 Q. Now, Talman and Fuddy were friends of yours, right?

04:28:35 23 A. No, not Talman. Fuddy was.

04:28:37 24 Q. Fuddy was a good friend of yours, right?

04:28:40 25 A. Right.



04:28:40 1 Q. He was the head of the gang that you were in, right?

04:28:42 2 A. Yes.

04:28:43 3 Q. And in addition to being the head of the gang, he was a

04:28:46 4 good friend of yours?

04:28:47 5 A. Yes.

04:28:48 6 Q. And after the shooting, you went down and saw these two

04:28:52 7 men lying on the sidewalk or lying on the front of the

04:28:54 8 building?

04:28:54 9 A. Yes.

04:28:55 10 Q. And the police arrived?

04:28:57 11 A. Not right then, no.

04:28:58 12 Q. Well, eventually the police arrived. You were there when

04:29:02 13 the police came there?

04:29:03 14 A. No, I had left and went through Ida B. Wells.

04:29:05 15 Q. You didn't wait for the police?

04:29:07 16 A. No.

04:29:07 17 Q. You had, according to your testimony, witnessed possibly

04:29:12 18 the two perpetrators of this crime and you didn't wait to tell

04:29:16 19 the police?

04:29:17 20 A. No, not then, no.

04:29:19 21 Q. You didn't call the police?

04:29:21 22 A. I didn't have a phone to call the police.

04:29:23 23 Q. But you didn't go to a pay phone to call the police?

04:29:25 24 A. No.

04:29:26 25 Q. You didn't call them. Why?

04:29:29 1 A. Because I didn't have a phone.

04:29:30 2 Q. Well, you went over to another CHA housing after the

04:29:35 3 shooting, right?

04:29:36 4 A. Um-hmm.

04:29:36 5 Q. And did you come back to the building then?

04:29:39 6 A. Yes, I came back.

04:29:40 7 Q. And when you came back, were the police still there?

04:29:44 8 A. Yes, they were still there.

04:29:45 9 Q. And they were looking for witnesses?

04:29:47 10 A. That night they came.

04:29:49 11 Q. Well, I'm talking about that day.

04:29:51 12 A. That day, not right then, no.

04:29:53 13 Q. Were they gone by the time you came back?

04:29:55 14 A. No, they were still there. There was nobody looking for

04:29:59 15 no witnesses right then.

04:30:00 16 Q. Did you go up to the police when you came back after going

04:30:04 17 over to the other project and telling them you seen two men?

04:30:07 18 A. No.

04:30:08 19 Q. Did you tell them you saw two men running into a car?

04:30:12 20 A. No.

04:30:12 21 Q. Did you tell them you saw two men running with guns into a

04:30:16 22 car?

04:30:16 23 A. No.

04:30:17 24 Q. You didn't speak to the police?

04:30:19 25 A. I spoke to the police that night.

04:30:21 1 Q. No, but I mean, at that time?

04:30:23 2 A. No.

04:30:24 3 Q. Okay. Now, that night then, police came to your apartment

04:30:28 4 and talked to Randy Langston, right?

04:30:30 5 A. Yes.

04:30:31 6 Q. And were you there when they came and talked to Randy?

04:30:34 7 A. Yes, I was there.

04:30:35 8 Q. Did you hear Randy tell the police that he had seen one

04:30:39 9 man with a red ski mask, did you hear Randy Langston tell the

04:30:44 10 police that?

04:30:44 11 A. No.

04:30:44 12 Q. Did you hear what Randy had to say to the police?

04:30:47 13 A. No, I wasn't paying no attention to what Randy had to say

04:30:50 14 to the police.

04:30:51 15 Q. Did you then tell the police what you had seen earlier

04:30:53 16 that day?

04:30:54 17 A. I told them that I had seen something and they said that,

04:30:58 18 all right, we will contact, and I didn't hear from them until

04:31:01 19 a year later.

04:31:02 20 Q. Do you remember the names of the officers that you told

04:31:05 21 that to?

04:31:06 22 A. No, I can't recall.

04:31:09 23 Q. Was it the same officers that were speaking to Randy

04:31:12 24 Langston?

04:31:12 25 A. Yes, they were the same.

04:31:13 1 Q. Does Detective Minogue, does that ring a bell with you as  
04:31:18 2 the detective that was speaking to you that night?  
04:31:20 3 A. I can't remember.  
04:31:21 4 Q. If you saw him again, would you remember him?  
04:31:23 5 A. No, if it's been too long, I don't think I will.  
04:31:26 6 Q. When the police spoke with you that night, did they talk  
04:31:29 7 to Sandra also?  
04:31:31 8 A. I can't remember.  
04:31:31 9 Q. Did they speak with Eric or James?  
04:31:34 10 A. I can't remember.  
04:31:35 11 Q. Now, you have been provided housing or lodging from the  
04:31:40 12 state's attorney's office, correct?  
04:31:41 13 A. Correct.  
04:31:41 14 Q. Did you also receive some sort of job from the police  
04:31:46 15 department or through the police?  
04:31:47 16 A. No, Dave told me where they was hiring and told me to go  
04:31:51 17 down and check it out.  
04:31:52 18 Q. Dave O'Callaghan?  
04:31:54 19 A. Yes.  
04:31:54 20 Q. The officer that is in the back or was here earlier?  
04:31:57 21 A. Yes.  
04:31:57 22 Q. He tried to help you get a job?  
04:32:00 23 A. He had told me where they was hiring.  
04:32:03 24 Q. And that was in May of 1985, right?  
04:32:06 25 A. Um-hmm.

04:32:06 1 Q. Well, do you know how much money you've received?

04:32:10 2 A. No, I do not.

04:32:12 3 Q. Now, you testified that you saw a lineup on May 16th,

04:32:17 4 1985?

04:32:17 5 A. Yes.

04:32:18 6 Q. Is that the date that you saw the lineup or is that the

04:32:21 7 date the police came and first talked to you after the initial

04:32:24 8 day?

04:32:24 9 A. No, that's -- I saw photos on May 16th.

04:32:28 10 Q. May 16th, you saw photos?

04:32:30 11 A. Yes.

04:32:30 12 Q. And did O'Callaghan show you those photos?

04:32:33 13 A. Yes.

04:32:34 14 Q. And did he tell you that he had information as to who the

04:32:37 15 four people were that had done the killing?

04:32:39 16 A. Uhn-uhn.

04:32:40 17 Q. Did he show you Earl Hawkins's photographs?

04:32:43 18 A. No, I had to pick it out.

04:32:45 19 Q. Did you pick out a photograph of George Carter?

04:32:49 20 A. I don't know George Carter.

04:32:49 21 Q. Well, did you identify anybody in that group of photos as

04:32:56 22 somebody that was in the car?

04:32:56 23 A. Yes, I had.

04:32:58 24 Q. So you did identify somebody then as somebody that was

04:33:01 25 sitting in the car, correct?

04:33:03 1 A. Um-hmm.

04:33:04 2 Q. But you just testified now that the car was too far away  
04:33:09 3 and you couldn't see who was in the car?

04:33:12 4 A. Yes, it was too far away.

04:33:14 5 Q. It was what?

04:33:14 6 A. It was too far away for me to see.

04:33:16 7 Q. Well, if that is the case, how did you pick out a picture  
04:33:21 8 of the man who was in the car if you hadn't seen anybody in  
04:33:25 9 the car?

04:33:25 10 A. I don't know.

04:33:27 11 Q. You don't remember?

04:33:28 12 A. Uhn-uhn.

04:33:34 13 MR. HEPPELL: This is reflects cross-examination by  
04:33:37 14 Mr. Fields' attorney Mr. Smeeton.

04:33:38 15 THE COURT: Still in the 1986 trial?

04:33:39 16 MR. HEPPELL: Correct.

04:33:42 17 BY MR. HEPPELL:

04:33:43 18 Q. Mr. Morris, when you say you spoke to detectives the night  
04:33:46 19 of this incident, they were white detectives?

04:33:47 20 A. Yes.

04:33:47 21 Q. And they spoke with Randy too that night?

04:33:50 22 A. Yes.

04:33:50 23 Q. Well, you don't recall whether they talked to James or  
04:33:54 24 sandy also?

04:33:55 25 A. Uhn-uhn.

04:33:55 1 Q. And the names Minogue and Bogdalek ring no bell to you as  
04:34:01 2 the officers you talked to?  
04:34:02 3 A. No.  
04:34:02 4 Q. You did not tell those police officers that night or give  
04:34:05 5 them a description of the people that you saw, did you?  
04:34:08 6 A. No.  
04:34:09 7 Q. You didn't describe in detail to those detectives the  
04:34:12 8 circumstances or what you saw out your window that night, did  
04:34:16 9 you?  
04:34:16 10 A. No, I didn't.  
04:34:17 11 Q. Did you hear Randy telling the detectives everything that  
04:34:21 12 he saw?  
04:34:21 13 A. No.  
04:34:23 14 Q. You didn't hear it?  
04:34:24 15 A. No, I can't remember.  
04:34:27 16 Q. You don't remember?  
04:34:28 17 A. No.  
04:34:29 18 Q. You told these detectives, I know something, but you  
04:34:34 19 didn't tell them what it was and they didn't ask you any  
04:34:37 20 questions about what you knew, what you saw, or who you saw?  
04:34:41 21 A. No, they didn't.  
04:34:43 22 Q. And you testified that you picked out a photo of George  
04:34:49 23 Carter on May 16th of '85 as being in the car. You testified  
04:34:53 24 you really couldn't see it?  
04:34:55 25 A. Right.

04:34:55 1 Q. And not only that you did pick out his photo, but on May  
04:35:00 2 16th, 1985, you picked George Carter out of a lineup and  
04:35:05 3 identified him as being in that car, didn't you?  
04:35:08 4 A. Yes.  
04:35:09 5 Q. But you really couldn't see him because he was too far  
04:35:13 6 away?  
04:35:13 7 A. Yes.  
04:35:14 8 Q. Did somebody tell you to pick Carter out of that lineup?  
04:35:17 9 A. No.  
04:35:17 10 Q. You did that on your own?  
04:35:20 11 A. Yes, I went in and picked George Carter.  
04:35:22 12 Q. And you said that was the man that was sitting in the car?  
04:35:26 13 A. Yes.  
04:35:26 14 Q. And when you say the two men you've identified as the  
04:35:32 15 defendants got in the car, did you see the ski masks?  
04:35:35 16 A. No, I didn't see the ski masks.  
04:35:36 17 Q. Could you see the guns?  
04:35:38 18 A. Yes.  
04:35:39 19 Q. You saw them throw the guns in the car?  
04:35:42 20 A. Yes.  
04:35:42 21 Q. So you could see their hands?  
04:35:44 22 A. Yes.  
04:35:45 23 Q. When you saw Detective O'Callaghan in May, I believe you  
04:35:50 24 said the first time you saw him in May, like the 16th or so of  
04:35:54 25 '85, did he knock on your door?



04:35:56 1 A. No, I wasn't around there. I had moved.

04:35:59 2 Q. Where were you?

04:36:00 3 A. I was in the Ida B. Wells.

04:36:03 4 Q. You were in the Ida B. Wells at that time?

04:36:04 5 A. Um-hmm.

04:36:05 6 Q. When O'Callaghan came to your door, did he knock on the

04:36:09 7 door?

04:36:09 8 A. My door?

04:36:10 9 Q. Yes.

04:36:11 10 A. Yes.

04:36:12 11 Q. Had you talked to him, to Mr. O'Callaghan prior to that

04:36:17 12 day when you talked to him for the first time?

04:36:20 13 A. No, that was the first time I seen him.

04:36:22 14 Q. First time you seen him?

04:36:23 15 A. Yes.

04:36:23 16 Q. Do you know how he found you?

04:36:25 17 A. No, uhn-uhn.

04:36:27 18 Q. When he knocked on your door, who were you home with?

04:36:30 19 A. Me and my girlfriend.

04:36:31 20 Q. When you saw the lineup wherein Mr. Fields stood up, was

04:36:38 21 there anybody else down at the police station when you viewed

04:36:40 22 that lineup?

04:36:41 23 A. Yes, but we were in separate rooms.

04:36:43 24 Q. Who else was down there?

04:36:44 25 A. It was me, Randy, and Eric.

04:36:45 1 Q. Do you know who looked at the lineup first?

04:36:48 2 A. I think I looked at it first.

04:36:50 3 Q. Were you able to see the people who stood in the lineup?

04:36:53 4 A. It was a three -- it was a three-way glass like.

04:37:01 5 Q. Probably two-way?

04:37:03 6 A. Two-way.

04:37:04 7 Q. How many people stood in the lineup?

04:37:05 8 A. I can't remember.

04:37:06 9 Q. Do you remember who the police officer was that stood with

04:37:08 10 you when you did that lineup, looked at the lineup with Mr.

04:37:11 11 Fields in it?

04:37:11 12 A. Stood with me?

04:37:12 13 Q. Yes.

04:37:14 14 Let me ask you. Was Dave O'Callaghan with you when

04:37:17 15 you viewed the lineup with him and Nathson Fields?

04:37:20 16 A. Yes.

04:37:20 17 Q. And Dave O'Callaghan was also with you when you viewed the

04:37:23 18 lineup of George Carter, picked Carter out, wasn't he?

04:37:28 19 A. No.

04:37:29 20 Q. He wasn't there?

04:37:30 21 A. No, he wasn't there.

04:37:31 22 Q. Do you know who was?

04:37:32 23 A. No, I can't remember who was with me.

04:37:34 24 Q. What did the people in the lineup do?

04:37:36 25 A. They stepped forward and stepped back.

04:37:38 1 Q. When they stepped forward, how far did they step forward?

04:37:41 2 A. Not that close.

04:37:42 3 Q. I'm sorry?

04:37:43 4 A. Not that close.

04:37:44 5 Q. How far -- did you stand with your face right up near the

04:37:48 6 window?

04:37:48 7 A. No.

04:37:48 8 Q. I'm sorry?

04:37:49 9 A. No.

04:37:50 10 Q. How far from the wall where the window was were the people

04:37:55 11 that were standing in the lineup?

04:37:56 12 A. I don't know.

04:37:57 13 Q. About five feet, ten feet?

04:37:59 14 A. I don't know.

04:37:59 15 Q. Could you show in the courtroom here from where you are to

04:38:02 16 where the chairs are or where to where the lawyer is or how

04:38:06 17 far?

04:38:06 18 A. I would say right, about right there to where I'm

04:38:10 19 standing.

04:38:11 20 Q. To where?

04:38:13 21 A. To them chairs to where I am.

04:38:14 22 Q. A distance of about eight or nine feet.

04:38:17 23 When you say the people in the lineup stepped

04:38:20 24 forward, how far did they step forward?

04:38:21 25 A. About up to the typewriter and back.

04:38:24 1 Q. About four feet from the window or halfway to the window?

04:38:28 2 A. Halfway to the window.

04:38:29 3 Q. And when you looked at photographs on or about May 16th of

04:38:33 4 '85, you weren't able to make a positive identification of

04:38:36 5 either Mr. Hawkins or Mr. Fields, were you?

04:38:38 6 A. No.

04:38:39 7 Q. And did the length of time that had passed make it -- the

04:38:45 8 year that had passed make it difficult for you to recognize

04:38:48 9 those people?

04:38:48 10 A. Ain't nothing made it difficult.

04:38:50 11 Q. Well, did the faces look different in the picture than the

04:38:53 12 people you saw?

04:38:54 13 A. No.

04:38:54 14 Q. What was your hesitancy of being able to positively

04:38:58 15 identify the people in the pictures? Was it something

04:39:01 16 different about the pictures than the people you saw that day?

04:39:05 17 A. No, it wasn't nothing different.

04:39:06 18 Q. So the people in the pictures, they didn't look the same

04:39:09 19 then as the people that you saw in the streets that day?

04:39:13 20 A. Uhn-uhn, the clothes possibly, but not the faces.

04:39:16 21 Q. Well, if their faces were the same, but you still could

04:39:19 22 not make a positive identification, could you?

04:39:21 23 A. No, I requested lineups.

04:39:23 24 Q. What did you say when you saw the pictures?

04:39:26 25 A. I asked them, can I see a lineup to make a positive

04:39:30 1 identification.

04:39:30 2 Q. What did you say about the pictures?

04:39:33 3 A. What did I say about?

04:39:36 4 Q. Before you identified the lineup, did you say something

04:39:38 5 about the people in the pictures?

04:39:40 6 A. No.

04:39:41 7 Q. Or didn't you say anything at all?

04:39:44 8 A. I looked at the pictures and I pointed them out and I

04:39:46 9 asked the officers, can I see a lineup to make positive

04:39:49 10 identification.

04:39:50 11 Q. Now, when you say you were looking out the window talking

04:39:55 12 to Fuddy, you say the window slides open?

04:39:57 13 A. Yes.

04:39:57 14 Q. So when the window slides open, is half the window then

04:40:01 15 exposed?

04:40:02 16 A. Um-hmm.

04:40:02 17 Q. How wide are those windows?

04:40:04 18 A. I would say like three feet.

04:40:05 19 Q. So when you opened the windows, there was about a foot and

04:40:08 20 a half opening then?

04:40:10 21 A. No.

04:40:10 22 Q. Well, how big was it?

04:40:12 23 A. It was big enough for your body to fit out of it.

04:40:15 24 Q. Yet if it was just big enough for you yet you and Sandra

04:40:19 25 Langston were both hanging out that window, right?

04:40:21 1 A. She was standing up.

04:40:23 2 Q. I'm sorry?

04:40:24 3 A. She was standing up in the window with me. I was leaning  
04:40:28 4 over. She was standing in the window.

04:40:30 5 Q. Well, when you testified on direct examination, you were  
04:40:34 6 both leaning out the window, you were mistaken then?

04:40:37 7 A. Yes, I was.

04:40:38 8 Q. So now only you are hanging out the window and she was  
04:40:43 9 not?

04:40:43 10 A. She wasn't hanging out the window.

04:40:48 11 Q. You testified that the offenders, the two people you seen  
04:40:53 12 previously, when they ran to the car, were they running?

04:40:56 13 A. Yes, they were running.

04:40:57 14 Q. When they got to the car, one of the people opened the  
04:40:59 15 door?

04:40:59 16 A. Yes.

04:40:59 17 Q. Is it your testimony that -- before they got in the car,  
04:41:02 18 they stopped and they turned around and looked back in your  
04:41:05 19 direction?

04:41:05 20 A. No, they didn't stop and turn around. They kept going.

04:41:08 21 The heavy set one had the door open while the other one jumped  
04:41:13 22 in.

04:41:13 23 Q. Well, you weren't able to see their faces then as they got  
04:41:16 24 in the car?

04:41:16 25 A. Yes, as they were running past. They were pulling their

04:41:21 1 masks off.

04:41:21 2 Q. They were pulling them off as they ran by you?

04:41:23 3 A. Yes, as they ran by.

04:41:25 4 Q. Well, you were looking directly out at the car, right?

04:41:28 5 A. Yes, from the back window, right.

04:41:30 6 Q. From the side window?

04:41:32 7 A. Yes, the back window.

04:41:33 8 Q. And is this the window where your bedroom is?

04:41:35 9 A. Yes.

04:41:36 10 Q. And you can't see them until they get in front of your

04:41:39 11 window; is that correct?

04:41:41 12 A. Yes, that's correct.

04:41:41 13 Q. And once they get in front of your window, you are behind

04:41:45 14 them isn't that correct?

04:41:46 15 A. Yes.

04:41:47 16 Q. So you are looking at the backs of their heads, correct?

04:41:51 17 A. Not really.

04:41:52 18 Q. Not really?

04:41:53 19 A. No.

04:41:54 20 Q. Well, could you see their faces as they ran by you on the

04:41:57 21 side window?

04:41:58 22 A. No, I couldn't see them, but I knew it was them.

04:42:00 23 Q. You couldn't see their faces then?

04:42:02 24 A. Yes.

04:42:04 25 Q. And you couldn't see their faces as they got in the car

04:42:07 1 either, could you?

04:42:07 2 A. Yes.

04:42:08 3 Q. Well, when they got to the car, they had to have turned  
04:42:11 4 around to look for you to see them, didn't they?

04:42:14 5 A. I knew it was them.

04:42:15 6 Q. But you didn't see their faces, you knew it was them  
04:42:18 7 because you saw them before, is that what you're saying?

04:42:21 8 A. They had on the same thing that they had on when they  
04:42:24 9 walked past, that's how I knew it was them.

04:42:26 10 Q. But you didn't see their faces this time, did you?

04:42:28 11 A. No, I didn't see their faces.

04:42:30 12 Q. Did you tell Fuddy when you were talking with him that you  
04:42:34 13 were going to come down and meet with him downstairs, you had  
04:42:37 14 to get your shirt?

04:42:38 15 A. Yes.

04:42:38 16 Q. Did he say he would meet you downstairs?

04:42:41 17 A. Yes, said he would be standing in front.

04:42:43 18 Q. Was there anything in particular that you and him had to  
04:42:46 19 discuss?

04:42:49 20 A. Not really. I was asking him about had he seen Paul, and  
04:42:53 21 he said Paul hadn't gotten out of jail yet, and that's what he  
04:42:56 22 was standing under the breezeway for, to wait for Paul.

04:43:02 23 A. I probably was going to mention it, yes.

04:43:03 24 Q. So you told him I'll come downstairs to meet you?

04:43:06 25 A. Yes.



04:43:07 1 Q. But instead of going right to your bedroom and getting  
04:43:10 2 your shirt to go down and see him, you stood staring out the  
04:43:13 3 window for five more minutes?  
04:43:16 4 A. Yes.  
04:43:16 5 Q. And during that five minutes, nobody out of that big  
04:43:20 6 complex happened by your window but you say these two men?  
04:43:24 7 A. Right.  
04:43:25 8 Q. And then after these two men happened to come by, five  
04:43:29 9 minutes later, that's when you went to get your shirt and go  
04:43:32 10 down and see Fuddy?  
04:43:34 11 A. Yes.  
04:43:34 12 Q. And when you viewed the lineup where you said you picked  
04:43:39 13 out -- strike that. Earl Hawkins, was Carlos Willis down  
04:43:43 14 there?  
04:43:43 15 A. No.  
04:43:44 16 Q. Do you know Carlos?  
04:43:46 17 A. Yes, I know him.  
04:43:47 18 Q. Was Eric Benson down there?  
04:43:49 19 A. No.  
04:43:49 20 Q. Do you know him?  
04:43:50 21 A. No, I don't know Darryl Benson.  
04:43:53 22 Q. I'm sorry?  
04:43:54 23 A. No.  
04:43:54 24 Q. You don't know Eric Benson?  
04:43:56 25 A. Uhn-uhn.

04:43:57 1 Q. Do you know Torrence White?

04:43:58 2 A. We probably call him by a different name.

04:44:01 3 Q. Do you know Richard Buckles?

04:44:02 4 A. Yes, I do, Richard.

04:44:04 5 Q. Did you see Richard that day?

04:44:06 6 A. No, I didn't see him.

04:44:08 7 Q. How do you know Richard?

04:44:09 8 A. Through Fuddy.

04:44:10 9 Q. Richard is a member of the Goon Squad, right?

04:44:14 10 A. Yes, he was.

04:44:15 11 Q. Now, Randy's brother, James, he is not; is that correct?

04:44:19 12 A. No.

04:44:20 13 Q. And Carlos Willis, he was not a member of the Goon Squad

04:44:23 14 either, was he?

04:44:24 15 A. He was.

04:44:25 16 Q. When was he?

04:44:26 17 A. I can't recall the day that he was, but he was.

04:44:33 18 MS. KATZ: That's the end of 1986.

04:44:35 19 THE COURT: That's where we are going to stop. Okay.

04:44:37 20 Thanks.

04:44:37 21 We'll resume at -- let me just check quickly. Yeah,

04:44:42 22 we'll resume about the same time tomorrow, 9:30, 9:35.

04:44:47 23 Somewhere in there. Don't discuss the case with each other or

04:44:54 24 anybody else.

04:45:30 25 (The jury leaves the courtroom.).

04:45:30 1 THE COURT: Is the 2009 Morris testimony about that  
04:45:45 2 same length, longer or shorter.

04:45:47 3 MS. KATZ: I think it's a little bit shorter. I  
04:45:49 4 think Mr. Sexton gets through a little faster and the print is  
04:45:52 5 actually bigger, so it should take a little less time. That's  
04:45:56 6 my anticipation.

04:45:56 7 THE COURT: That took exactly 45 minutes.

04:45:58 8 MS. KATZ: Sam, yeah?

04:46:01 9 MR. HEPPELL: Yeah.

04:46:02 10 THE COURT: Or 44, I guess.

04:46:04 11 So just kind of reviewing the bidding on where we are  
04:46:10 12 then, so tomorrow you've got to finish the Morris testimony  
04:46:15 13 and then what else?

04:46:19 14 MR. BURNS: Davis.

04:46:21 15 THE COURT: Davis testimony. You have Hunter, I  
04:46:23 16 mean, I am going to do my best to get through it tonight.  
04:46:27 17 Davis testimony. Do you have a sense how long that is?

04:46:30 18 MR. NOLAND: Davis is about 20 minutes.

04:46:31 19 THE COURT: 20 minutes.

04:46:33 20 MR. NOLAND: That's a video, your Honor.

04:46:34 21 THE COURT: That's a video, that's right. Hunter  
04:46:36 22 assuming it's all read would be how long, about? Hunter?  
04:46:44 23 Longer or shorter than Davis? Laura, longer.

04:46:51 24 MR. LOEVY: But shorter than Morris.

04:46:53 25 THE COURT: What else after that?

04:46:54 1 MR. NOLAND: The experts, Mr. Murray, Mr. Noble, and  
04:46:59 2 Ms. Roberts.

04:47:01 3 THE COURT: And then Mr. Hogan?

04:47:03 4 MR. KULWIN: No. And then we would hope to read  
04:47:06 5 Sandra Langston depending on how you rule.

04:47:11 6 THE COURT: Langston testimony.

04:47:13 7 MR. KULWIN: We are going to submit -- as soon as we  
04:47:16 8 get theirs.

04:47:16 9 THE COURT: I don't have anything on that yet right?

04:47:19 10 MR. KULWIN: Remember.

04:47:20 11 THE COURT: You talked about it early this morning.  
04:47:22 12 I don't remember what.

04:47:22 13 MR. KULWIN: They are going to give their  
04:47:25 14 designations and objections on availability.

04:47:27 15 THE COURT: Just remind me on that. Sandra Langston,  
04:47:30 16 is the issue going to be an availability issue? That's the  
04:47:32 17 one with the availability issue potentially?

04:47:34 18 MR. KULWIN: Yes.

04:47:35 19 MR. ART: Yes.

04:47:36 20 MR. LOEVY: We haven't fully investigated. We got  
04:47:39 21 notice last night.

04:47:40 22 THE COURT: Then we have Maue.

04:47:42 23 MR. MICHALIK: Correct, Judge.

04:47:43 24 THE COURT: I am not saying all tomorrow. We have  
04:47:45 25 Maue and Hogan.

04:47:47 1 MR. MICHALIK: Poulos.

04:47:48 2 THE COURT: Poulos and Hogan. Who am I missing?

04:47:54 3 MR. KULWIN: We are still working on possibly  
04:47:57 4 Mr. Rueckert, but we haven't -- Mr. Rueckert, but we haven't  
04:47:59 5 been able to talk to him or missing phone calls or whatever.  
04:48:03 6 That's the latest I have heard.

04:48:04 7 THE COURT: That covers the universe?

04:48:08 8 MR. KULWIN: That covers my universe.

04:48:09 9 THE COURT: Okay. All right.

04:48:13 10 MR. KULWIN: I have charted it out, Judge, my rough  
04:48:16 11 guess is depending on what Mr. Loevy does, Thursday or Friday  
04:48:21 12 morning.

04:48:22 13 THE COURT: Well, not Friday morning, but Friday  
04:48:24 14 afternoon.

04:48:25 15 MR. KULWIN: Friday afternoon. So we are definitely  
04:48:27 16 not doing Friday morning?

04:48:28 17 THE COURT: Well, I'm still, you know -- I'm supposed  
04:48:34 18 to be at this other thing. It's really going to kind of  
04:48:37 19 depend on where we are and how badly we need it. That's what  
04:48:40 20 it's going to boil down to. I think the odds are I am going  
04:48:43 21 to tell you we are starting at noon or something like that.

04:48:46 22 Okay. So I guess we need to at some point here  
04:48:53 23 finish off these two Hogan issues. On Maue, there's another  
04:49:02 24 one where there is an availability -- there's an admissibility  
04:49:05 25 question on the prior testimony or there was something

04:49:07 1 discussed about this this morning.

04:49:09 2 MR. ART: He is the one in southern Illinois.

04:49:12 3 THE COURT: All right. When are we going to talk  
04:49:15 4 about that?

04:49:16 5 MR. MICHALIK: You asked us to put something in  
04:49:17 6 writing, Judge. We could talk about it.

04:49:20 7 THE COURT: No, put something in writing.

04:49:21 8 So we got these two Hogan issues. So Hogan, I mean,  
04:49:29 9 you might have gotten to him today, but now you are going to  
04:49:32 10 do a whole bunch of other stuff before you get to him.

04:49:35 11 MR. KULWIN: Right.

04:49:35 12 THE COURT: I think the thing to do then is let's --  
04:49:39 13 including experts, you are going to do experts before you get  
04:49:42 14 to Hogan.

04:49:43 15 MR. MICHALIK: Yes.

04:49:43 16 MR. KULWIN: He is going to be the last witness.

04:49:45 17 THE COURT: Let's figure we are going to talk about  
04:49:47 18 Hogan either right before the lunch break or right after the  
04:49:51 19 lunch break tomorrow.

04:49:52 20 MR. KULWIN: Okay.

04:49:53 21 THE COURT: That will give everybody a chance to  
04:49:55 22 process these documents, think about these documents. Can I  
04:49:57 23 keep these copies?

04:49:58 24 MR. KULWIN: Yes.

04:49:59 25 MR. LOEVY: Yes.

04:49:59 1 MR. ART: You can keep those, Judge.

04:50:01 2 MR. KULWIN: The government made those for you.

04:50:02 3 MR. ART: Mr. Kuhn mentioned that he wanted the

04:50:05 4 documents he showed to be under the protective order until

04:50:07 5 whatever is decided.

04:50:10 6 THE COURT: Okay, under a protective order.

04:50:18 7 MR. LOEVY: We want to talk about an issue, too, when

04:50:20 8 it's our turn.

04:50:21 9 THE COURT: Okay.

04:50:21 10 MR. LOEVY: The issue is Kuhn. Mr. Kulwin and I have

04:50:24 11 now had about three conversations with I him and each time he

04:50:28 12 tells us the first thing which is.

04:50:29 13 THE COURT: That's a start.

04:50:30 14 MR. LOEVY: No, you'd be surprised, your Honor.

04:50:33 15 THE COURT: He tells you the same thing which is.

04:50:35 16 MR. LOEVY: He has been told that Murphy's notes are

04:50:38 17 not in the possession.

04:50:39 18 THE COURT: Oh, we are back to the notes?

04:50:40 19 MR. LOEVY: Yes, because during that time period,

04:50:43 20 there was no live investigation by which they would have

04:50:46 21 received those notes and if called to testify, he would say we

04:50:51 22 did not -- I have been told, he has no personal knowledge, he

04:50:55 23 would say I have been told that the U.S. Attorney's Office did

04:50:57 24 not accept these notes. Now, he hasn't checked.

04:51:00 25 THE COURT: Did you see he tell you who he is told

04:51:03 1 this by?

04:51:04 2 MR. LOEVY: No.

04:51:04 3 THE COURT: Three guesses and the first don't count.

04:51:08 4 MR. LOEVY: A guy named Deady.

04:51:10 5 MR. KULWIN: Yeah.

04:51:11 6 THE COURT: Deady was involved in the very early  
04:51:14 7 stages.

04:51:14 8 MR. KULWIN: It was Bogart to Deady to Hogan.

04:51:17 9 MR. LOEVY: What we have here that I would like to  
04:51:19 10 tender to you is a proposed stipulation.

04:51:21 11 THE COURT: Deady is still around?

04:51:22 12 MR. KULWIN: Yeah, he represented.

04:51:24 13 THE COURT: I seen him recently.

04:51:26 14 MR. KULWIN: He represented a fellow in the city  
04:51:27 15 thing with the patronage years ago. I can't remember his  
04:51:30 16 name.

04:51:30 17 THE COURT: The city thing with the patronage. That  
04:51:33 18 doesn't narrow it down.

04:51:35 19 MR. KULWIN: Sorich. The Sorich going to. That  
04:51:38 20 could cover a lot of territory. He's very active.

04:51:41 21 MR. LOEVY: Your Honor, Mr. Murphy testified that the  
04:51:45 22 reason he doesn't have these original notes with the  
04:51:46 23 redactions is because he gave them to time U.S. Attorney's  
04:51:48 24 Office. That's inconsistent with what we were told.

04:51:51 25 THE COURT: Say what you just said again.



04:51:52 1 MR. LOEVY: Sure. Remember, the issue.

04:51:54 2 THE COURT: Just tell me again. I didn't hear it  
04:51:58 3 largely because I was coughing.

04:51:59 4 MR. LOEVY: Sorry. Mr. Murphy had original notes  
04:52:03 5 that, remember how --

04:52:05 6 THE COURT: I know what the notes, that's the thing  
04:52:07 7 with the little dashes in it and whatnot.

04:52:08 8 MR. LOEVY: And the missing stuff. And we said where  
04:52:11 9 are your original notes and he said several things. One of  
04:52:14 10 the things he said was he put them in the investigative file,  
04:52:17 11 another thing he said was I gave the originals to the U.S.  
04:52:21 12 Attorney's Office. Well, I guess then I may stand corrected  
04:52:28 13 on that. I thought he said he gave them to the U.S.  
04:52:30 14 Attorney's Office. All right.

04:52:32 15 THE COURT: I have no memory.

04:52:33 16 MR. ART: He said the first thing Mr. Loevy said. He  
04:52:36 17 said that he gave the notes to another law enforcement agency  
04:52:39 18 or the state's attorney's office, one or the other, and then  
04:52:42 19 there was representations made by attorneys during his  
04:52:44 20 examination that they were -- the originals were likely in the  
04:52:47 21 possession of the U.S. Attorney's Office.

04:52:48 22 THE COURT: That's how we got off on this whole  
04:52:50 23 thing.

04:52:51 24 MR. ART: Right.

04:52:52 25 THE COURT: There was this whole reason we got into

04:52:55 1 this whole thing with the U.S. Attorney's Office. I wouldn't  
04:52:56 2 have thought of that on my own. Are we talking about Murphy?

04:53:01 3 MR. BURNS: Murphy said at the time the notes were  
04:53:05 4 prepared, the GPR was prepared, the people who were present  
04:53:08 5 including representatives from the U.S. Attorney's Office,  
04:53:10 6 state's attorney's office and law enforcement all wanted  
04:53:12 7 copies and he made those notes of the GPR available for the  
04:53:16 8 purpose of coping. He said he didn't know where they went  
04:53:19 9 from there. As far as the other, I mean, we could probably  
04:53:22 10 get a rough transcript or get the transcript to you so you  
04:53:24 11 could look at that.

04:53:25 12 THE COURT: Do that.

04:53:26 13 MR. BURNS: More specifically.

04:53:28 14 THE COURT: Do that so we are not guessing.

04:53:30 15 MR. KULWIN: I have gotten confused about these notes  
04:53:33 16 because there's so many different dates. Let me just make  
04:53:36 17 sure we are all on the same proverbial page. I believe what  
04:53:40 18 we are talking about is lieutenant Murphy's notes while he's  
04:53:44 19 in the state's attorney's offices in the gang crimes while  
04:53:48 20 they're debriefing Anthony Sumner and what we have heard so  
04:53:54 21 far.

04:53:54 22 THE COURT: It's a multi page document where he was  
04:53:56 23 going through various events.

04:53:57 24 MR. KULWIN: Right. And I believe the accurate facts  
04:54:01 25 are and I think we have heard testimony about this, I am not a

04:54:04 1 hundred percent, is that at that time, it would have been  
04:54:06 2 Deady, definitely not Hogan, he wasn't involved then, Deady  
04:54:10 3 was probably there, I believe Brannigan testified that Deady  
04:54:13 4 was there, Brannigan remembered he was there, he testified he  
04:54:16 5 was there, he went out to get a drink of water every once in a  
04:54:19 6 while, blah, blah, blah, I believe Wharrie testified that he  
04:54:24 7 was there, I'm pretty sure that Wharrie testified that he was  
04:54:27 8 part of that debriefing and then you had other law enforcement  
04:54:29 9 people. So the debriefing there were a lot of cases at that  
04:54:33 10 time. Murphy was, I believe -- I believe the testimony was  
04:54:36 11 that he came in at one point, he went out, and those are the  
04:54:39 12 notes at issue. And I believe -- I believe Mr. Burns  
04:54:43 13 represented it correctly as to what's going on with that.

04:54:47 14 As far as where the U.S. attorney comes in, I believe  
04:54:50 15 for purposes of this case, I could stand corrected me, I will  
04:54:56 16 leave it to anybody that wants to correct me, is that at some  
04:54:59 17 point, Dan, you can correct me if I'm wrong, at some point in  
04:55:07 18 other litigation involving the U.S. Attorney's Office, these  
04:55:09 19 notes, copies of these notes were made. And then retained in  
04:55:16 20 the U.S. Attorney's Office. Where the U.S. Attorney's Office  
04:55:19 21 got the copies of the notes, I think is up in the air. I  
04:55:24 22 don't know. And what Mr. Kuhn also said is that it's his  
04:55:30 23 understanding that they didn't have these original notes, but  
04:55:34 24 he also said that he hasn't looked through all 482 boxes. I  
04:55:38 25 think he's just looking it could be one of the places.

04:55:42 1 THE COURT: He is getting information from somebody  
04:55:44 2 else that he didn't have this. It might be worthwhile just  
04:55:47 3 somebody asking Mr. Kuhn who did you get that information  
04:55:49 4 from.

04:55:50 5 MR. KULWIN: I'm pretty confident.

04:55:51 6 MR. LOEVY: Could we get him here to put it on the  
04:55:53 7 record.

04:55:54 8 THE COURT: Can I not be involved in everything in  
04:55:55 9 this case? That's my request. Can you like ask him first?

04:55:58 10 MR. LOEVY: Your Honor, he told us the information on  
04:56:00 11 the stipulation.

04:56:01 12 THE COURT: I know. Now it's a different question.  
04:56:03 13 Where did you get this information from?

04:56:05 14 MR. KULWIN: Sure.

04:56:05 15 THE COURT: He probably didn't general right it on  
04:56:08 16 his own. Where did you get this information from so we can  
04:56:11 17 figure out how to deal with it.

04:56:13 18 MR. KULWIN: Okay.

04:56:13 19 THE COURT: If he won't tell you, he won't tell you,  
04:56:16 20 then ask him to come.

04:56:17 21 MR. KULWIN: I'm sure he'll tell us, Judge. I have  
04:56:20 22 no doubt.

04:56:21 23 MR. LOEVY: I guess, your Honor, what we don't want  
04:56:22 24 to do is the trial to end without it having been resolved.

04:56:25 25 THE COURT: I am not even seeing the light at the end

04:56:28 1 of the tunnel at this point. I am not even sure there is an  
04:56:31 2 end of the tunnel. I am told there is an end of the tunnel.  
04:56:33 3 There is a rumor that there is a light, but I am not seeing  
04:56:36 4 either one of them.

04:56:37 5 MR. KULWIN: I can --

04:56:37 6 MR. LOEVY: We are hopeful. But our issue on the  
04:56:40 7 notes is there is original notes he had possession of them.  
04:56:45 8 We want to cut off his testimony or suggestion or --

04:56:48 9 THE COURT: What's the his?

04:56:49 10 MR. LOEVY: Murphy. Murphy took the notes, they're  
04:56:55 11 original and they're important. That's our position.

04:56:57 12 MR. KULWIN: A different point and the reason I am  
04:56:59 13 not willing to stipulate to what they proposed aside from the  
04:57:02 14 fact that I think it's inaccurate is maybe it's probably just  
04:57:05 15 me, but I don't think that this is a material issue. I think  
04:57:08 16 that this is an issue for the plaintiff, they want to make a  
04:57:12 17 big deal of it. There is zero evidence that the originals --

04:57:16 18 THE COURT: There's plenty of stuff that comes into  
04:57:18 19 evidence that isn't critical.

04:57:19 20 MR. KULWIN: Right.

04:57:19 21 THE COURT: There's plenty of stuff that people  
04:57:21 22 stipulate to that isn't critical . That's usually the stuff  
04:57:26 23 they stipulate to, the stuff that isn't critical. I can  
04:57:29 24 imagine somebody coming up with, you know, some other way of  
04:57:35 25 dealing with this, in other words, you could come up with

04:57:39 1 something that everybody agrees that a diligent search has  
04:57:41 2 been made for the originals of Mr. Murphy's notes and they  
04:57:45 3 can't be located without being attributed, that might be a  
04:57:50 4 possibility, they can't be located which means they aren't  
04:57:53 5 anywhere, but I'm not sure why you have to put it in the U.S.  
04:57:56 6 Attorney's Office. But I'll say this.  
04:57:59 7 Number one, I want you to collectively gather  
04:58:01 8 Mr. Murphy's testimony so I can see it.  
04:58:04 9 MR. LOEVY: Right.  
04:58:04 10 THE COURT: Point me to where it is.  
04:58:05 11 Number two, think about the alternative I proposed or  
04:58:08 12 maybe another alternative.  
04:58:10 13 No. 3, I can't force somebody to stipulate about  
04:58:13 14 something, so you need to be thinking of what plan B is.  
04:58:15 15 MR. LOEVY: What we want to do.  
04:58:16 16 THE COURT: You probably are thinking about it. I  
04:58:18 17 just want you to -- you don't have to tell me. Just be  
04:58:22 18 thinking about it.  
04:58:22 19 MR. LOEVY: Will do.  
04:58:23 20 THE COURT: Anything else before we go?  
04:58:25 21 MR. LOEVY: Yes. An expert tomorrow, Mr. Murray,  
04:58:28 22 gave us a supplemental supplement.  
04:58:31 23 THE COURT: A supplemental supplement?  
04:58:32 24 MR. LOEVY: Yes on November 3rd, 2016. We'll file  
04:58:37 25 it. I haven't read it. Your Honor, in fairness to the

04:58:43 1 defense, we have not yet given this to them.

04:58:45 2 THE COURT: Okay. Then everybody can look at it and  
04:58:48 3 talk about it in the morning. Let me just skim it real quick.  
04:58:53 4 It's pretty short.

04:59:11 5 Okay. I guess my preference would be -- I mean, it's  
04:59:26 6 basically a page and a half. My preference would be that you  
04:59:29 7 could file something so we don't have to take time out of the  
04:59:31 8 jury on that. That's my preference. Do what you want to do.

04:59:35 9 MR. ART: Thanks, Judge.

04:59:36 10 THE COURT: Talk to you tomorrow. Thanks.

04:59:37 11 MR. KULWIN: Thanks, Judge.

05:00:19 12 (The trial was adjourned at 5:00 p.m. until 9:30 a.m. on  
05:00:28 13 December 7, 2016.)

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